LAWS RELATING

TO

LABOR

AND

EMPLOYMENT

(As amended and in force July 1, 1943)

Compiled by

EDWARD J. BARRETT
SECRETARY OF STATE

(Printed by authority of the State of Illinois)

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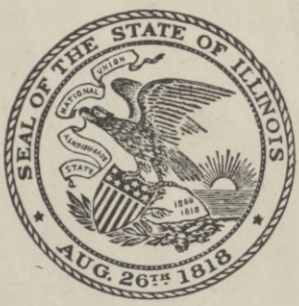

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EIGHT HOUR DAY FOR WOMEN

(Ill. Rev. Stat. Ch. 48, Pars. 5,-8)

AN ACT *concerning the hours of employment of females in certain occupations.*

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

SECTION 1. No female shall be employed in any mechanical or mercantile establishment, or factory, or laundry, or hotel, or restaurant, or barber shop or beauty parlor, or telegraph or telephone establishment or office thereof, or in any place of amusement, or by any person, firm or corporation engaged in any express or transportation or public utility business, or by any common carrier, or in any public or private institution or offices thereof, incorporated or unincorporated in this State, more than eight hours during any one day nor more than forty-eight (48) hours in any one week. The hours of work may be so arranged as to permit the employment of females at any time so that they shall not work more than eight hours during the twenty-four hours of any day.

[As amended by Act approved July 1, 1937.]

§ 1½. The provisions of Section 1 of this Act which limits the employment of females in certain occupations shall not apply:

(a) To a female employed as a graduate nurse; or

(b) Where a female is employed as an operator in a telephone or telegraph establishment between the hours of 7:30 P. M. and 8:00 A. M. for not more than ten (10) hours during such period. if sleeping facilities are provided and if during that period the female is permitted to sleep for at least four (4) hours except when actually engaged in answering and completing calls; or

(c) In case of a female operating a switchboard for a telephone company in an agency maintained by it in a private residence, or place of business other than an exclusive telephone establishment; or

(d) In time of a public emergency which requires immediate action to suppress or prevent the spread of disease or to prevent or remove imminent danger to persons or property, to such employments as shall be necessary to furnish essential public services such as communication, sewage disposal, water supply, light, gas and transportation, for a period of not to exceed forty-eight (48) hours; or

(e) To females employed in canning establishments engaged in the preservation of perishable fruits or vegetables direct from the fields, during the canning season from June 1 to October 15, provided

such females do not work more than ten hours in any one calendar day, nor more than sixty (60) hours in any one calendar week; or

(f) To a female employed in occupations other than mercantile establishments for not more than nine hours in not more than one day of a calendar week, provided that such excess over eight hours in that day shall be deducted from the subsequent regularly scheduled employment time of that calendar week or the next calendar week if such excess occurs on Saturday, and *provided further* that the total time of employment shall in no event exceed forty-eight (48) hours in any one calendar week.

(g) To a female employed in a mercantile establishment for not more than nine hours in any one calendar day nor more than fifty-four (54) hours in any one calendar week for not more than four weeks in any one calendar year.

[Added by Act approved July 1, 1937.]

§ 2. Any employer who shall require or permit or suffer any female to work in any of the places mentioned in Section 1 of this Act more than the number of hours provided for in this Act, during any day of twenty-four hours, or who shall fail, neglect or refuse so to arrange the work of females in his employ that they shall not work more than the number of hours provided for in this Act, during any one day, or who shall permit or suffer any overseer, superintendent or other agent of any such employer to violate any of the provisions of this Act, shall be guilty of a misdemeanor and upon conviction thereof shall be fined for each offense in a sum of not less than $25.00 or more than $100.00.

[As amended by Act approved June 10, 1911.]

§ 3. The Department of Labor shall be charged with the duty of enforcing the provisions of this Act and prosecuting all violations thereof.

[As amended by Act approved July 1, 1937.]

§ 4. All Acts and parts of Acts in conflict herewith are hereby repealed.

§ 5. Every employer to whom this Act shall apply, shall keep a time book or record showing for each day that his establishment is open the hours during which each and every female in his employ, to whom this Act applies is employed. Such time book or record shall be open at all reasonable hours to the inspection of the officials of the Department of Labor. The failure or omission to keep such record, or a false statement contained therein, or any false statement made by any person to an official of the Department of Labor, in reply to any question put in carrying out of the provisions of this Act, or for any other violation of any provisions of this Act for which a penalty is not otherwise provided, shall be punishable on conviction by a penalty of not more than $25.00 for each offense.

[As amended by Act approved July 1, 1937.]

§ 6. The Director of Labor shall, during World War II, grant emergency wartime permits to employers authorizing the employment of females in such work regardless of the other provisions of this act, upon proper showing of the necessity for longer working hours due to

war time conditions and inability to meet the situation by increasing the number of employees or adjustment of production schedules. The Director shall not revoke or modify any such permit issued, except for reasonable cause; *provided* that such permits shall not authorize the employment of females more than ten (10) hours in any one day nor more than fifty-four (54) hours in any one week nor more than ten (10) weeks in one year. Within these limits, the permits may be renewed from time to time.

The Director of Labor may prescribe reasonable rules for carrying out the provisions of this section.

[Added by Act approved July 16, 1943.]

APPROVED June 15, 1909.

SIX DAY WEEK

(Ill. Rev. Stat. Ch. 48, Pars. 8A-8G)

AN ACT *to promote the public health and comfort of persons employed by providing for one day of rest in seven.*

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

SECTION 1. The words and phrases mentioned in this section, as used in this Act, and in proceedings pursuant hereto shall, unless the same be inconsistent with the context, be construed as follows:

"Employer" shall mean a person, partnership, joint stock company or corporation, which employs any person to work, labor or exercise skill in connection with the operation of any business, industry, vocation or occupation.

"Factory" shall include a mill, workshop or other manufacturing establishment, and all buildings, sheds, structures or other places used for, or in connection therewith, where one or more persons are employed at manufacturing, including making, altering, repairing, finishing, refining, bottling, canning, cleaning or laundering any article or thing.

"Mercantile establishment" means a place where one or more persons are employed in which goods, wares or merchandise are offered for sale, and includes a building, shed, structure, or any part thereof, occupied in connection with such establishment.

§ 2. Every employer operating any factory, mercantile establishment, transportation or public service company, hotel, or apartment hotel, restaurant, hospital, laundry, telegraph or telephone establishment, banking institution, brokerage business, theatre or freight or passenger elevator in this State, or any employer engaged as a contractor to furnish or supply labor upon a contract to any person, municipality or county institution of this State, or any office thereof, shall allow every person except those specified in Section 3 of this Act, employed in, about or in connection with, such business or service, at least twenty-four consecutive hours of rest in every

calendar week in addition to the regular period of rest allowed at the close of each working day.

[As amended by Act approved July 19, 1937.]

§ 3. This Act shall not apply to:

1. Janitors;

2. Watchmen;

3. Superintendents or foremen in charge of groups of employees;

4. Employees whose duties on Sunday shall not consume more than three hours, such as employees engaged in:

(a) Setting sponges in bakeries;

(b) Caring for live animals;

(c) Maintaining fires or electrical current;

(d) Necessary repairs to boilers, machinery, equipment or power.

[As amended by Act approved July 19, 1937.]

§ 4. Before operating on the first day of the week, which is commonly known as Sunday, every employer shall post in a conspicuous place on the premises, a schedule containing a list of his employees who are required or allowed to work on Sunday, and designating the day of rest for each, and shall file a copy of such schedule, and every subsequent change thereof, with the Director of Labor. No employee shall be required or allowed to work on the day of rest so designated for him.

§ 5. Every employer shall keep a time book showing the names and addresses of all employees and the hours worked by each of them on each day, and such time book shall be open to inspection by the Director of Labor.

§ 6. The Director of Labor shall be charged with the duty of enforcing the provisions of this Act and prosecuting all violations thereof.

§ 7. Any employer who violates any of the provisions of this Act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined for each offense in a sum of not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00).

§ 8. The Director of Labor shall, during World War II, grant emergency wartime permits to employers authorizing the employment of persons in such work regardless of the other provisions of this Act, upon proper showing of the necessity for longer working hours due to war time conditions and inability to meet the situation by increasing the number of employees or adjustment of production schedules. The Director shall not revoke or modify any such permit issued excepting for reasonable cause; *provided* that such permits shall not authorize the employment of persons for seven (7) days a week for more than two (2) consecutive weeks nor for more than eight (8) weeks in any one year.

The Director of Labor may prescribe reasonable rules for carrying out the provisions of this section.

[Added by Act approved July 16, 1943.]

Approved July 8, 1935.

WAGE ASSIGNMENTS

(Ill. Rev. Stat. Ch. 48, Pars. 39.1-39.9)

AN ACT *to promote the welfare of wage-earners by regulating the assignment of wages, and prescribing a penalty for the violation thereof.*

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

SECTION 1. No assignment of wages earned or to be earned shall be valid unless

(1) In writing signed by the wage-earner, in person, and bearing the date of its execution, the name of the employer of the wage-earner at the time of its execution, the amount of the money loaned or the price of the articles sold or other consideration given, the rate of interest, if any, to be paid, and the date when such payments are due;

(2) Given to secure an existing debt of the wage-earner or one contracted by the wage-earner simultaneously with its execution;

(3) An exact copy thereof to be furnished to the wage-earner at the time the assignment is executed;

(4) Headed by the words "Wage Assignment", to be printed or written in bold face letters of not less than one-quarter inch in height.

(5) Written as a separate instrument complete in itself and not a part of any conditional sales contract or any other instrument.

[As amended by Act approved July 8, 1937.]

§ 2. Demand on an employer for the wages of a wage-earner by virtue of a wage assignment shall not be served on the employer unless

(1) There has been a default in payment of the indebtedness secured by the assignment and such default has continued to the date of such demand; and unless

(2) Such demand contains a correct statement as to the amount the wage-earner is in default and the original or a photostatic copy of the assignment shall be exhibited to the employer.

Service of any such demand without complying with the above requirements shall have no legal effect, and in no case shall a demand have any legal effect after thirty days from the service of the demand, unless suit is instituted against the employer of the wage-earner on the assignment within such thirty days.

§ 3. No assignment of wages shall be valid and collectable as against any employer other than the employer of the wage-earner at the time the assignment is executed.

§ 4. No more than twenty-five per centum of the wages of a

wage-earner shall be subject to collection by the assignee. If there is more than one assignment demand received by the employer, the assignees shall collect in the order of priority of service of the demand upon the employer but the total of all collections shall not exceed twenty-five per centum of the wages of the wage-earner covering any period.

§ 5. A discharge in bankruptcy shall be a valid defense to any suit brought upon a wage assignment executed by the bankrupt prior to the adjudication in bankruptcy; no assignment of wages shall be valid after three years from the date of its execution and shall be void after such period of three years.

§ 6. Any person who wilfully and wrongfully serves a demand as assignee for wages when no assignment has been made to him or under an assignment which is invalid as provided by this Act knowing such assignment to be invalid with intent to obtain for himself or any other person the wages of an employee, is guilty of a misdemeanor and on conviction thereof shall be fined not less than fifty dollars nor more than two hundred dollars for each separate offense.

§ 7. If any of the provisions of this Act are unconstitutional it is the intent of the General Assembly that so far as possible the remaining provisions of the Act be given effect.

§ 8. Nothing herein contained shall be construed as making invalid any assignment of wages executed prior to July 1, 1935.

§ 9. Nothing contained in this Act shall apply to any transaction under "An Act to license and regulate the business of making loans in sums of three hundred dollars ($300.00) or less, secured or unsecured, at a greater rate of interest than seven (7) per centum per annum, prescribing the rate of interest and charge therefor and penalties for the violation thereof, and regulating the assignment of wages or salaries earned or to be earned when given as security for any such loan", approved June 14, 1917, as amended, or under "An Act in relation to Credit Unions", approved June 26, 1925, as amended.

APPROVED July 1, 1935.

GUARANTEEING OF WAGES

(Ill Rev. Stat. Ch. 48, Pars. 39F-1 to 39F-5)

AN ACT *in relation to the payment of wages of laborers in certain enterprises wherein the employer is a lessee, to provide for the filing of a bond to guarantee such wages, and to provide penalties for violation.*

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

SECTION 1. Every corporation, association, co-partnership, company, firm or person principally engaged or about to engage principally in the business of mining coal, ore, or other minerals, or quar-

rying stone or any process in connection with well-drilling for oil, gas or water, or manufacturing iron, steel, lumber, stoves, barrels, brick, tile, machinery, agricultural or mechanical implements, or any commodity, having a lease only on such mine, mineral or mining rights, quarry, well or manufacturing plant and on the tipple, shaft, trackage, works, tools, appliances or machinery used or to be used in such business, shall, before beginning or continuing such work, tender for filing to the clerk of the Circuit or Superior Court of the county in which such a business is located, a bond to be approved by such clerk, payable to the State of Illinois, in a sum double the amount of the semi-monthly pay-roll of any such lessee, and signed by good and sufficient free-hold sureties or a surety company and conditioned that wages due the employees of any such lessee will be paid promptly when due; provided, if the value of the real and personal property within the State of Illinois owned by such lessee as shown by the last preceding assessment or assessments for taxation or as shown by the sworn affidavit of such lessee is at least double the amount of the semi-monthly pay-roll of such lessee, then it shall not be necessary for such lessee to file such bond. Such clerk shall not file such bond until after the same has been examined and approved by him.

The clerk of such court shall examine each lessee tendering such bond under oath touching the number of employees to be employed and the amount of wages to be paid. The Clerk of the Court may re-examine a lessee whose bond is on file and cause the amount of such bond to be increased or decreased on account of changed conditions of employment to an amount equal to double the semi-monthly wages of the employees of such lessee. If such lessee makes wage payments to his employees upon a weekly basis, then and in that event the bond required to be filed hereunder, or the value of his property required to be shown by tax assessment or affidavit to dispense with such filing, shall be in an amount equal to two times the amount of the weekly pay-roll of such lessee. For purposes of this Act, "lease" includes a bailment or a conditional sale; "lessee" includes a bailee or a purchaser under conditional sales agreement.

§ 2. Any person having wages due and unpaid from any lessee as provided in Section one hereof shall have a right of action in the name of the State of Illinois on the relation of such person on such bond, from the date the same are due and in any suit brought thereon such person shall, when judgment is rendered for such wages, also have judgment for the costs of suit and attorney's fees.

§ 3. Any person, firm, corporation, co-partnership, association, or company who shall fail to file the bond as provided in Section one of this Act shall be deemed guilty of a misdemeanor and on conviction shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

§ 4. The clerk of the court with whom a bond is filed pursuant to this Act, may charge a filing fee therefor, such fee in no case however to exceed the sum of three dollars ($3.00).

§ 5. This Act shall not in any way affect the liens of laborers and mechanics, as now secured to them by the laws of this State.

APPROVED June 18, 1941.

PAYMENT IN LAWFUL MONEY

(Ill. Rev. Stat. Ch. 48, Pars. 38, 39)

AN ACT *in relation to the payment of wages otherwise than in lawful money, and to repeal an Act entitled "An Act to prevent extortion and compel the payment of debts contracted for labor in bankable currency", approved June 21, 1895, in force July 1, 1895.*

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

SECTION 1. That no person, firm or corporation engaged in any business or enterprise within this State shall issue, in payment of or as evidence of indebtedness, for wages due an employe for labor, any time check, store order, scrip, or other acknowledgment of indebtedness, unless the same is payable or redeemable upon demand, without discount and for face value, in lawful money of the United States at the office or place of business of such person, firm or corporation.

§ 2. Any person, firm or corporation who shall violate any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be punished by a fine not to exceed one hundred ($100.00) dollars, or confined in the county jail for a period not to exceed thirty (30) days, or both, in the discretion of the court.

§ 3. That an Act to prevent extortion and compel the payment of debts contracted for labor in bankable currency, approved June 21, 1895, in force July 1, 1895, be, and the same is hereby repealed.

APPROVED June 26, 1917.

WAGES DUE EMPLOYEES

(Ill. Rev. Stat. Ch. 48, Pars. 39G-39M)

AN ACT *in relation to the payment of wages due employees from their employers in certain cases, to provide for the enforcement thereof through the Department of Labor, and to prescribe penalties for the violation thereof.*

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

SECTION 1. Nothing in this Act shall apply to the payment of wages of employees directly employed by the State or any department, agency, or any political division thereof or any municipal corporation or body politic within the State.

§ 2. Every employer shall pay the wages of his employees as follows:

(1) Not later than five days after a discharge or lay-off (for

more than one week) of any employee the employer shall pay such employee his wages in full to the time of such discharge or lay-off.

(2) Not later than the next regular pay day after an employee quits his employment, such employer shall pay such employee his wages in full to the time of such quitting, unless such employee shall have given five days previous notice of his intention to leave, in which case such employer shall pay such employee in full to the time of such quitting at the time of such quitting.

(3) Whenever a strike occurs, the employer shall at the next regular pay day following such strike pay the striking employees their wages in full to the time such employees ceased working. If less than five days intervene between such strike and such pay day, the employer shall pay such striking employees not later than five days after such strike. At the option of the employer, payment to such striking employees may be made through the Department of Labor. Whenever payment is to be so made, notices announcing such manner of payment shall be posted at the regular place of business of the employer in a position easily accessible to all employees.

(4) If because of absence from the place of payment any employee is not paid within the times specified above, he shall be paid at any time thereafter on demand, or he shall, if he so demands, be paid by mail, less the actual cost of transmission.

(5) When the office of any employer from which payment to employees is made is out of this State and because of this fact payment cannot be made at the time specified herein, such employer shall be allowed such additional time for making payments as seems reasonable under all the circumstances but in no case shall such additional time exceed ten days.

The provisions of this section shall not apply when the amount of wages payable to an employee exceeds $100.00 nor when the amount of wages payable is based upon commissions for goods sold.

§ 3. Whenever an employer wilfully refuses to pay an employee as provided in Section 2 of this Act, the wages of such employee shall continue as liquidated damages for such non-payment, at the same rate of wages of compensation that he was receiving at the time he ceased working for such employer until paid, but in no case shall such wages continue for more than ten days.

If an employer offers payment of wages in full before the expiration of the periods provided in Section 2, an employee who fails to present himself at the time and place notified for such payment, or who refuses to receive payment when so offered, shall not be entitled to claim any amount as liquidated damages unless prior to such offer he demands that payment be made by mail and the employer fails to comply with such demand.

§ 4. Every employer shall post and keep posted at each regular place of business in a position easily accessible to all employees one or more notices on forms supplied from time to time by the Department of Labor containing:

(1) A copy or summary of the provisions of this Act,

(2) A statement of the regular pay days, and

(3) A statement of the place and time for payment of employees under this Act.

§ 5. Any employer or any agent of an employer, who, being able to pay wages and being under a duty to pay, wilfully refuses to pay as provided in Section 2 of this Act, or falsely denies the amount or validity thereof or that the same is due, with intent to secure for himself or other person any underpayment of such indebtedness or with intent to annoy, harass, oppress, hinder, delay or defraud the person to whom such indebtedness is due or who fails to post the notices as required by Section 4 of this Act, is guilty of a misdemeanor and on conviction thereof shall be fined not less than twenty-five dollars ($25.00) and not more than two hundred dollars ($200.00).

§ 6. It shall be the duty of the Department of Labor to inquire diligently for any violations of this Act, and to institute the actions for penalties herein provided, and to enforce generally the provisions of this Act.

The department shall have the following powers:

(a) To investigate and attempt equitably to adjust controversies between employees and employers in respect of wage claims arising under this Act and to that end, the department, through the Director of Labor or any other person in the Department of Labor designated by him, 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 as may relate to the question in dispute. Service of such subpoenas shall be made by any sheriff or constable or any person. Any court of record in this State, upon the application of the department either in term time or vacation may compel attendance of witnesses, the production of books and papers, and the giving of testimony before the department by attachment for contempt or in any other way as the production of evidence may be compelled before such court.

(b) To take assignments of wage claims in the name of the Director of Labor and his successors in office and prosecute actions for the collection of wages for persons financially unable to prosecute such claims when in the judgment of the department such claims are valid and enforceable in the courts. No court costs or any fees for necessary writs, process and proceedings shall be payable in advance by the department for prosecuting such suits. In the event there is a judgment rendered against the defendant, the court shall assess as part of such judgment the costs of such proceeding. Upon collection of such judgment the department shall pay from the proceeds of such judgment such costs to such person who is by law entitled to same. The department may join in a single proceeding any number of wage claims against the same employer but the court shall have discretionary power to order a severance or separate trials for hearings.

(c) To make complaint in any court of competent jurisdiction of violations of Section 5 of this Act.

Nothing herein shall be construed to prevent any employee from making complaint or prosecuting his own claim for wages.

§ 7. If any of the provisions of this Act are unconstitutional, it is the intent of the General Assembly that so far as possible the remaining provisions of the Act be given effect.

Approved July 9, 1937.

WAGES OF EMPLOYEES ON PUBLIC WORKS

(Ill. Rev. Stat. Ch. 48, Pars. 39S-1 to 39S-12)

An Act *regulating wages of laborers, mechanics and other workmen employed under contracts for public works.*

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

Section 1. It is hereby declared to be the policy of the State of Illinois that a wage of no less than the general prevailing rate per diem for work of a similar character in the locality in which the work is performed, shall be paid to all laborers. workmen and mechanics employed by or on behalf of the State, or by or on behalf of the county, city and county, city, town, township, district or other political subdivision of the State, engaged in public works exclusive of maintenance work.

§ 2. The term "public works" within the meaning of this Act shall be held to be constructive work done for irrigation, utility, reclamation, improvement and other districts, or other public agency or agencies, public officer or body, as well as street, sewer and other improvement work done under the direction and supervision or by the authority of any officer or public body of the State, or of any political subdivision, districts or municipality thereof whether such political subdivisions, district or municipality thereof operates under a special charter or not, also any construction or repair work done under contract, and paid for in whole or in part out of public funds, other than work done directly by any public utility company pursuant to order of the commerce commission or other public authority, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds.

Construction work done for irrigation, utility, reclamation, improvement and other districts, or other public agency or agencies, public officer or body, as well as street, sewer and other improvement work done under the direction and supervision or by the authority of any officer or public body of the State, or of any political subdivision, districts or municipality thereof whether such political subdivisions, district or municipality thereof operates under a special charter or not,

also any construction or repair work done under contract, and paid for in whole or in part out of public funds, other than work done directly by any public utility company pursuant to order of the commerce commission or other public authority, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds, shall be held to be "public works" within the meaning of this Act.

The term "locality in which the work is performed" shall be held to mean the city and county, county or counties in which the building, highway, road, excavation, or other structure, project, development or improvement is situated in all cases in which the contract is awarded by the State, or any public body thereof, and shall be held to mean the limits of the county, city and county, city, town, township, district or other political subdivision on whose behalf the contract is awarded in all other cases.

The terms "general prevailing rate of per diem wages" or "general prevailing rate of wages" or "prevailing rate of wages" when used in this Act shall be the wages paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character.

§ 3. Not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work, shall be paid to all laborers, workmen and mechanics employed by or on behalf of the State, or by or on behalf of any county, city and county, city, town, township, district or other political subdivision of the State, engaged in the construction of public works, exclusive of maintenance work. Only such laborers, workmen and mechanics as are directly employed by contractors or subconstractors in actual construction work on the site of the building or construction job, not including the manufacture, processing or transportion of materials or equipment, to or from the site in the execution of any contract or contracts for public works with the State, or any officer or public body thereof, or in the execution of any contract or contracts for public works with any county, city and county, city, town, township, district or other political subdivision of said State, or any officer or public body thereof, shall be deemed to be employed upon public works.

§ 4. The public body awarding any contract for public work on behalf of the State, or on behalf of any county, city and county, city, town, township, district or other political subdivision thereof, or otherwise undertaking any public works, shall ascertain the general prevailing rate of per diem wages in the locality in which the work is to be performed, for each craft or type of workman or mechanic needed to execute the contract, and shall specify in the call for bids for said contract, what the general prevailing rate of per diem wages in the said locality is for each craft or type of workman or mechanic needed to execute the contract, also the general prevailing rate for legal holiday and overtime work, and it shall be mandatory upon the contractor to whom the contract is awarded and upon any subcontractor under him,

to pay not less than the said specified rates to all laborers, workmen and mechanics employed by them in the execution of the contract. The public body awarding the contract shall cause to be inserted in the contract a stipulation to the effect that not less than the prevailing rate of wages as found by the public body or determined by the court on appeal shall be paid to all laborers, workmen, and mechanics performing work under the contract. It shall also require in all such contractor's bonds that the contractor include such provisions as will guarantee the faithful performance of such prevailing wage clause as provided by contract.

§ 5. The contractor and each subcontractor shall keep, or cause to be kept, an accurate record showing the names and occupation of all laborers, workmen and mechanics employed by them, in connection with said public work, and showing also the actual per diem wages paid to each of such workers, which record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents, and to the Director of Labor and his deputies and agents.

§ 6. Any officer, agent or representative of the State or of any political subdivision, district or municipality thereof, who wilfully shall violate, or omit to comply with, any of the provisions of this Act, and any contractor or subcontractor, or agent or representative thereof, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, workman and mechanic employed by him, in connection with the said public work or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this Act, shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

§ 7. The finding of the public body awarding the contract or authorizing the work ascertaining and declaring the general prevailing rate of per diem wages shall be final for all purposes of the contract for public work then being considered, unless reviewed under the provisions of this Act. Nothing in this Act, however, shall be construed to prohibit the payment to any laborer, workman or mechanic employed on any public work, as aforesaid, of more than the prevailing rate of wages; *provided further* that nothing in this Act shall be construed to limit the hours of work which may be performed by any workman in any particular period of time.

§ 8. In the event the awarding body is unable to ascertain the prevailing rate of wage of any class of work required to be performed under its proposed contract it shall be the duty of such awarding body to state such fact in its notice for bids in which event the clause specifying the prevailing wage as to such class of work may be excluded from the contract unless such wage may be determined by the court on appeal as provided by this Act.

§ 9. To effectuate the purpose and policy of this Act, it shall be the duty of the public body from time to time to investigate and as-

certain the prevailing rate of wages as defined in this Act and to publicly post or keep available for inspection by any interested party in the main office of said public body its determination of such prevailing rate of wage and shall promptly file a certified copy thereof in the office of the Secretary of State at Springfield.

The public body shall within thirty (30) days after filing with the Secretary of State, publish in a newspaper of general circulation within the area that the determination is effective a notice of its determination and shall promptly mail a copy of its determination to any employer, and to any association of employers and to any person or association of employees who have filed their names and addresses, requesting copies of any determination stating the particular rates and the particular class of workmen whose wages will be affected by such rates.

At any time within thirty (30) days after a certified copy of the determination has been filed with the Secretary of State any person affected thereby may object in writing to the determination or such part thereof as they may deem objectionable by filing a written notice with the public body stating the specific grounds of the objection. It shall thereafter be the duty of the public body to set a date for a hearing on the objection after giving written notice to the objectors at least ten (10) days before the date of the hearing and said notice shall state the time and place of such hearing. The public body is authorized in its discretion to hear each written objection filed separately or consolidate for hearing any one or more written objections filed with them. At such hearing the public body shall introduce in evidence the investigation it instituted which formed the basis for its determination, and the public body or any objectors may thereafter introduce such evidence as is material to the issue. Thereafter the public body must rule upon the written objection and make such final determination as it believes the evidence warrants, and promptly file a certified copy of its final determination with the Secretary of State, and serve a copy by personal service or registered mail on all parties to the proceedings.

If within twenty (20) days thereafter, the final determination of the public body is not reviewed by writ of certiorari to the Circuit or Superior Court of any county in which the subject matter is situated or the proposed rate is effective it shall be final and binding.

Any person affected, whether or not such person participated in the previous proceedings, may within twenty (20) days after a determination by the public body has become final, file a praecipe for a writ of certiorari in the circuit or superior court of the county in which the subject matter of the hearing is situated, or, if the subject matter is situated in more than one county, then in any one of such counties for the purpose of having the reasonableness or lawfulness of the determination reviewed.

Upon filing of such praecipe, writ of certiorari shall issue directed to the public body, returnable on a designated return date not less than ten (10) nor more than thirty (30) days from the issuance thereof.

The person or the parties filing the praecipe for writ of certiorari, or other interested parties, shall, on or before the return date as fixed,

file in the office of the clerk of the court out of which said writ issued, specific grounds of objection to the particular determination sought to be reviewed.

Service of such writ of certiorari shall be had by serving a copy upon any member of the public body or its secretary, which service shall be service upon the public body.

The public body shall certify the record of the proceedings to the said court. For the purpose of a writ of certiorari, the record of the public body shall consist of a transcript of all testimony taken at the hearing, together with all exhibits, or copies thereof, introduced in evidence, and all information secured by the public body on its own initiative which was introduced in evidence at the said hearing; and a copy of the final determination filed, together with all objections filed with the public body.

On such certiorari proceedings, the court may confirm or reverse the determination as a whole, or may reverse and remand the determination as a whole, or may confirm any of the determination, and reverse or reverse and remand with respect to other determinations. The order of the court shall be a final and appealable order except as to such portion of the determination as may be remanded by the court.

The purpose of any such remanding order shall be for the further consideration of the subject matter of the particular determination remanded.

No new or additional evidence may be introduced in the court in such proceeding but the cause shall be heard on the record of the public body as certified by it. The court shall review all questions of law and fact presented by such record, and shall review questions of fact in the same manner as questions of fact are reviewed by the court on certiorari proceedings under the Workmen's Compensation Act.

The court first acquiring jurisdiction by virtue of the filing of a praecipe for writ of certiorari seeking to review any determination of the public body, shall have and retain jurisdiction of such review and of all other reviews from the same determination until such review is disposed of in said court.

Any person who subsequently, and within the time herein provided, has filed praecipe for writ of certiorari, may intervene in said original cause in whatever county it may be pending by making a proper showing.

The public body, in making return to any writ of certiorari where praecipe is filed subsequent to the first praecipe involving the same subject matter, shall file as its return, a statement that the record has theretofore been filed or is about to be filed, in response to the first praecipe theretofore filed.

At the time of making such subsequent return, the public body shall mail to the attorneys whose names appear on the said writ as attorneys for the petitioner therein, a true copy of the said return filed with the said court, which return shall state the county in which the first praecipe has been filed, the title and number of the case, and the return date of the said first writ of certiorari. Any party filing such subsequent praecipe for writ of certiorari may intervene in the said original proceeding or shall be foreclosed by the determination thereon.

Such intervenor shall be a party to the said proceeding to the same extent as the party who had filed the first praecipe, and may raise any additional question with respect to the subject matter by filing his specific objections in the said court within such time as the court may direct.

Appeals from all final orders and judgments entered by the said court in review of the determination, rule or rules of the public body, may be taken directly to the Supreme Court by either party to the action within thirty (30) days after the entry of the order of the said court.

Appeals from orders of the said court shall be in the manner provided by law for other civil cases appealed to the Supreme Court.

Any proceeding in any court affecting a determination of a public body shall have priority in hearing and determination over all other civil proceedings pending in said court, except election contests.

In all reviews or appeals under this Act, it shall be the duty of the Attorney General to represent the public body and defend its determinations.

§ 10. The Director of the Public Body or his authorized representative shall have the power to administer oaths, to take or cause to be taken the depositions of witnesses, and to require by subpoena the attendance and testimony of witnesses, and the production of all books, records, and other evidence relative to any matter under investigation or hearing. Such subpoena shall be signed and issued by the Director or his authorized representative. In case of failure of any person to comply with any subpoena lawfully issued under this section or on the refusal of any witness to produce evidence or to testify to any matter regarding which he may be lawfully interrogated, it shall be the duty of any Circuit or Superior Court, or the judge thereof, upon application of the Director or his authorized representative, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by such court or a refusal to testify therein. The Director shall have the power to certify to official acts.

§ 11. Any laborer, workman or mechanic employed by the contractor or by any sub-contractor under him who shall be paid for his services in a sum less than the stipulated rates for work done under such contract, shall have a right of action for whatever difference there may be between the amount so paid and the rates provided by the contract and an action brought to recover same shall be deemed to be a suit for wages, and any and all judgments entered therein shall have the same force and effect as other judgments for wages.

§ 12. If any section, sentence, clause or part of this act, is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The General Assembly hereby declares that it would have passed this Act, and each section, sentence, clause, or part thereof, irrespective of the fact that one or more sections, sentences, clauses, or parts might be declared unconstitutional.

Approved June 26, 1941.

REFUND OF WAGES PROHIBITED

(Ill. Rev. Stat. Ch. 48, Pars. 216A-216B)

AN ACT *to prohibit refund of wages under personal service contract.*

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

SECTION 1. For the purposes of this Act, the term "person" shall include any person, firm, partnership, association, corporation, or group of persons.

As used in this Act the term "employer" shall include any person, firm, partnership, association, corporation or group of persons employing a member or members of an association or union of workers having a collective bargaining contract or agreement with such person, firm, partnership, association, corporation or group of persons which contract or agreement requires payment of a stipulated minimum rate of wages.

§ 2. Whenever a collective bargaining agreement or contract between any employer or any association of employers and any association or union of employees for performance of personal service requires that employees, members of an association or union party to such agreement, engaged in its personal performance shall be paid a stipulated minimum rate of wages, it shall be unlawful for any person, either for himself or any other person to request, demand, persuade, induce or attempt to induce any such workman or employee, either before or after such workman or employee is engaged, to pay back, return, donate, contribute or give any part or all of said workman's or employee's wages, salary, or thing of value to the employer, his agents or representative, or any person acting for the employer or to receive or accept from such workman or employee, or any person acting for him, any part or all of such workman's or employee's wages or salary as a refund, gift or donation.

§ 3. The provisions of this Act shall not apply as to any deduction made by employers under any title of the "Social Security Act", or the Illinois "Unemployment Compensation Act", or as to any contributions made by employees for hospitalization, sick benefit plans, insurance, savings plans, credit unions, employees' social and recreational clubs, or union dues, pursuant to any agreement, or to any pension fund.

§ 4. Any one violating the provisions of this Act shall be fined not less than one hundred dollars ($100.00) nor more than three hundred dollars ($300.00) for each violation, and shall be guilty of a violation for each individual employee involved in such violation.

APPROVED July 21, 1941.

SEMI-MONTHLY PAYMENT OF WAGES

(Ill. Rev. Stat. Ch. 48, Pars. 36, 37)

§ 1. Payment semi-monthly. § 2. Penalty.

AN ACT *in relation to the semi-monthly payment of wages and salaries by corporations for pecuniary profit, and providing penalty for violation of same.*

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

SECTION 1. That every corporation for pecuniary profit engaged in any enterprise or business within the State of Illinois, shall as often as semi-monthly pay to every employee engaged in its business all wages or salaries earned by such employee to a day not more than eighteen (18) days prior to the date of such payment. Any employee who is absent at the time fixed for payment, or who for any other reason is not paid at that time, shall be paid thereafter at any time upon six days' demand, and any employee leaving his or her employment or discharged therefrom, shall be paid in full following his or her dismissal or voluntary leaving his or her employment, at any time upon three days' demand. No corporation coming within the meaning of this Act, shall by special contract with employees or by any other means secure exemption from the provision of this Act. And each and every employee of any corporation coming within the meaning of this Act shall have his or her right of action against any such corporation for the full amount of his or her wages due on each regular pay day as herein provided in any court of competent jurisdiction of this State.

§ 2. Any corporation coming within the meaning of this Act violating Section one (1) of this Act, shall be deemed guilty of a misdemeanor and fined in a sum not less than twenty-five dollars ($25.00) or more than one hundred dollars ($100.00) for each separate offense and each and every failure or refusal to pay each employee the amount of wages due him or her at the time, or under the conditions required in Section 1 of this Act, shall constitute a separate offense.

APPROVED June 21, 1913.

WITHHOLDING PER CENT OF WAGES

(Ill. Rev. Stat. Ch. 48, Pars. 32, 35)

§ 1. Wages must be paid in full on pay day—Exceptions.
§ 2. Certain contracts declared illegal.
§ 3. Violations—Penalty.
§ 4. Prosecutions of violations of act.

AN ACT *to regulate and enforce the payment of wages due laborers, servants and employees from corporations doing business in this State.*

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

SECTION 1. It shall be unlawful for any corporation doing business within this State to withhold from any of its laborers, servants

or employees any part or per cent of the wages earned by such laborer, servant or employee, beyond the date of the regular pay day of said corporation, under the guise or pretext, that the amount of wages so withheld, is to be given or presented to such laborer, servant or employee, as a present or gratuity from said corporation at the expiration of any future date, on condition that the services of such laborer, servant or employee have been performed to the entire satisfaction of said corporation, or upon condition that such laborer, servant or employee shall, unless sooner discharged by said corporation, remain in its employ until the expiration of some future date designated by said corporation, or under any other similar pretext or condition, but all such wages shall be paid in full by said corporation on its regular pay day. *Provided*, that nothing in this Act contained shall be held to abridge the right of any corporation not making or requiring contracts of the class specified above to make such contract or arrangement as may be legal, concerning the payment of wages to employees, *and provided further*, nothing herein contained shall be construed to affect the right of any corporation to contract for the retention of a part of the wages of said laborers, servants and employees for the purpose of giving to said servants, laborers, and employees insurance, hospital, sick or other similar relief.

§ 2. That all contracts or agreements of the kind and character referred to and described in Section 1 of this Act, hereafter made by any corporation doing business in this State, are hereby declared to be illegal, against public policy and null and void, and no such agreement or contract shall constitute a defense upon the part of any such corporation, to any action brought by any such laborer, servant or employee, for the recovery of any wages due him, and withheld from him by any such corporation, contrary to the provisions of this Act.

§ 3. That any such corporation doing business in this State who shall violate the provisions of this Act, shall for each offense, forfeit the sum of two hundred dollars to be recovered from it in any action of debt in the name of the People of the State of Illinois, or by any person who may sue for the same.

§ 4. It it hereby made the duty of the several State's Attorneys of this State in their respective counties, to prosecute all actions commenced in the name of the People of the State of Illinois, under the provisions of this Act.

APPROVED May 14, 1903.

WAGE STANDARDS FOR WOMEN AND MINORS

(Ill. Rev. Stat. Ch. 48, Pars. 198-216)

AN ACT *in relation to minimum fair wage standards for women and minors and providing penalties for the violation thereof.*

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

SECTION 1. The employment of women and minors in trade and industry in the State of Illinois at wages unreasonably low and not fairly commensurate with the value of the services rendered is a matter of grave and vital public concern. Many women and minors employed for gain in the State of Illinois are not as a class equally equipped for bargaining with their employers in regard to minimum fair wage standards, and "freedom of contract" as applied to their relations with their employers is in many cases illusory. Since a very large percentage of such workers are obliged from their week to week wages to support themselves and others who are dependent upon them in whole or in part, they are, by reason of their necessitous circumstances, forced to accept whatever wages are offered them. Judged by any reasonable standard, wages are in many cases fixed by chance and caprice and the wages accepted are often found to bear no relation to the fair value of the service rendered. Women and minors employed for gain are peculiarly subject to the over-reaching of inefficient or unreasonable employers and are under unregulated competition where no adequate machinery exists for the effective regulation and maintenance of minimum fair wage standards, and the standards such as exist tend to be set by the least conscionable employers. In the absence of any effective minimum fair wage rates for women and minors, the constant lowering of wages by unscrupulous employers constitute a serious form of unfair competition against other employers, reduces the purchasing power of the workers and threatens the stability of industry. The evils of oppressive, unreasonable and unfair wages as they affect women and minors employed in the State of Illinois are such as to render imperative the exercise of the police power of the State for the protection of industry and of the women and minors employed therein and of the public interest of the community at large in their health and well-being and in the prevention of the deterioration of our people.

§ 2. As used in this Act:

"Department" means the Department of Labor.

"Director" means the Director of the Department of Labor.

"Wage board" means a board created as provided in Section 6 of this Act.

"Woman" means a female of eighteen years or over.

"Minor" means a female person under the age of eighteen years and a male person under the age of twenty-one years.

"Occupation" means an industry, trade or business or branch thereof or class of work therein in which women or minors are gainfully employed, but does not include domestic service in the home of the employer or labor on a farm.

"An oppressive and unreasonable wage" means a wage which is both less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health.

"A fair wage" means a wage fairly and reasonably commensurate with the value of the services or class of service rendered. In establishing a minimum fair wage for any service or class of service under this Act the department and the wage board without being bound by any technical rules of evidence or procedure (1) may take into account all relevant circumstances affecting the value of the service or class of service rendered and (2) may be guided by like consideration as would guide a court in a suit for the reasonable value of services rendered where services are rendered at the request of an employer without contract as to the amount of the wage to be paid, and (3) may consider the wages paid in the State for work of like or comparable character by employers who voluntarily maintain minimum fair wage standards.

"A directory order" means an order the non-observance of which may be published as provided in Section 10 of this Act.

"A mandatory order" means an order the violation of which is subject to the penalties prescribed in paragraph two of Section 16 of this Act.

§ 3. It is hereby declared to be against public policy for any employer to employ any woman or minor in an occupation in this State at an oppressive and unreasonable wage as defined in Section 2 of this Act and any contract, agreement or understanding for or in relation to such employment shall be null and void.

§ 4. The department shall have full power and authority:

1. To investigate and ascertain the wages of women and minors employed in any occupation in the State;

2. To enter the place of business or employment of any employer of women and minors in any occupation for the purpose of examining and inspecting any and all books, registers, payrolls, and other records of any employer of women or minors that in any way appertain to or have a bearing upon the question of wages of any such women or minors and for the purpose of ascertaining whether the orders of the department have been and are being complied with; and

3. To require from such employer full and correct statements in writing when the department deems necessary, of the wages paid to all women and minors in his employment.

§ 5. The department shall have the power, and it shall be its duty on the petition of fifty or more residents of any county in which women or minors are employed in any occupation, to make an investigation of the wages being paid to women or minors in an occupation to ascertain whether any substantial number of women or minors in such occupation are receiving oppressive and unreasonable wages. If, on the basis of information in its possession with or without a special investigation, the department is of the opinion that any substantial number of women or minors in any occupation or occupations are receiving oppressive and unreasonable wages the director shall appoint a wage board to report upon the establishment of minimum fair wage rates for such women or minors in such occupation or occupations.

§ 6.[1.] A wage board shall be composed of not more than two representatives of the employers in any occupation or occupations, an equal number of representatives of the employees in such occupation or occupations and of one disinterested person representing the public, who shall be designated as chairman. The director shall appoint the members of such wage board, the representatives of the employers and employees to be selected so far as practicable from nominations submitted by employers and employees in such occupation or occupations. A majority of the members of such wage board shall constitute a quorum and the recommendations or report of such wage board shall require a vote of not less than a majority of all its members. Members of a wage board shall serve without pay, but may be reimbursed for necessary traveling expenses. The department shall make and establish from time to time rules and regulations governing the selection of a wage board and its mode of procedure not inconsistent with this Act.

2. A wage board shall have power to administer oaths and to require by *subpoena* the attendance and testimony of witnesses, the production of all books, records, and other evidence relative to any matters under investigation. Such *subpoenas* shall be signed and issued by a member of the wage board and may be served by any person of full age. Any Circuit Court or judge thereof in term time or vacation upon application of any member of wage board may, in his discretion, compel the attendance of witnesses and giving of testimony and the production of books, records and other evidence by attachment for contempt or otherwise in the same manner as production of evidence may be compelled before the court. A wage board shall have power to cause depositions of witnesses residing within or without the State to be taken in the manner prescribed for like depositions in civil actions in the Circuit Court.

3. The department shall present to a wage board promptly upon its organization all the evidence and information in its possession relating to the wages of women and minor workers in the occupation or occupations for which the wage board was appointed and all other information which the department deems relevant to the establishment of a minimum fair wage for such women and minors, and shall cause to be brought before the committee any witnesses deemed material.

A wage board may summon other witnesses or call upon the department to furnish additional information to aid it in its deliberation.

4. Within sixty days of its organization a wage board shall submit a report including its recommendations as to minimum fair wage standards for the women or minors in the occupation or occupations the wage standards of which the wage board was appointed to investigate. If its report is not submitted within such time the department may constitute a new wage board.

5. A wage board may differentiate and classify employments in any occupation according to the nature of the service rendered and recommend appropriate minimum fair rates for different employments. A wage board may also recommend minimum fair wage rates varying with localities if in the judgment of the wage board conditions make such local differentiation proper and do not effect an unreasonable discrimination against any locality.

6. A wage board may recommend a suitable scale of rates for learners and apprentices in any occupation or occupations, which scale of learners, and apprentices' rates may be less than the regular minimum fair wage rates recommended for experienced women or minor workers in such occupation or occupations.

§ 7. A report from a wage board shall be submitted to the department which shall within ten days accept or reject such report. If the report is rejected the department shall resubmit the matter to the same wage board or to a new wage board with a statement of the reasons for the resubmission. If the report is accepted it shall be published together with such proposed administrative regulations as the department may deem appropriate to implement or supplement the report of the wage board and to safeguard the minimum fair wage standards to be established, and notice shall be given of a public hearing to be held by the department not sooner than fifteen nor more than thirty days after such publication at which all persons in favor of or opposed to the recommendations contained in such report or in such proposed regulations may be heard.

§ 8. Within ten days after such hearing the department shall approve or disapprove the report of the wage board. If the report is disapproved the department may resubmit the matter to the same wage board or to a new wage board. If the report is approved the department shall make a directory order which shall define minimum fair wage rates in the occupation or occupations as recommended in the report of the wage board and which shall include such proposed administrative regulations deemed appropriate to implement or supplement report of the wage board and to safeguard the minimum fair wage standards established. Such administrative regulations may include among other things, regulations defining and governing learners and apprentices, their rates, number, proportion or length of services, piece rates or their relation to time rates, overtime or part time rates, bonuses or special pay for special or extra work, deductions for board, lodging, apparel or other items or services supplied by the employer and other special conditions or circumstances; and in view of the diversities and complexities of different occupations and the

dangers of evasion and nullification, the department may provide in such regulations without departing from the basic minimum rates recommended by the wage board such modifications or reductions of or additions to such rates in or for such special cases or classes of cases as those herein enumerated as the department may find appropriate to safeguard the basic minimum rates established.

§ 9. For any occupation for which minimum fair wage rates have been established the department may cause to be issued to a woman or minor, including a learner or apprentice, whose earning capacity is impaired by age or physical or mental deficiency or injury, a special license authorizing employment at such rates less than such minimum fair wage rates and for such period of time as shall be fixed and stated in the license.

§ 10. If the department has reason to believe that any employer is not observing the provisions of any order made by it under Section 8 of this Act the department may, on fifteen days' notice summon such employer to appear before it to show cause why the name of such employer should not be published as having failed to observe the provisions of such order. After such hearing and the finding of non-observance, the department may cause to be published in a newspaper or newspapers circulating within the State of Illinois or in such other manner as may be deemed appropriate, the name of any such employer or employers as having failed in the respects stated to observe the provisions of the directory order. Neither the department nor any authorized representative thereof, nor any newspaper publisher, proprietor, editor, nor employee thereof shall be liable to an action for damages for publishing the name of any employer as provided for in this Act unless guilty of some wilful misrepresentation.

§ 11. If at any time after a directory minimum fair wage order has been in effect for nine months the department is of the opinion that the persistent non-observance of such order by one or more employers is a threat to the maintenance of fair minimum wage standards in any occupation or occupations, it may give notice of intention to make such order mandatory and of a public hearing to be held not sooner than fifteen nor more than thirty days after such publication at which all persons in favor of or opposed to a mandatory order may be heard. After such hearing, the department, if it adheres to its opinion, may make the previous directory order or any part thereof mandatory and so publish it.

§ 12. At any time after a minimum fair wage order has been in effect for one year or more, whether during such period it has been directory or mandatory, the department may on its own motion and shall on petition of fifty or more residents of any county in which women or minors are employed in any occupation reconsider the minimum fair wage rates set therein and reconvene the same wage board or appoint a new wage board to recommend whether or not the rate or rates contained in such order should be modified. The report of such wage board shall be dealt with in the manner prescribed in sections 7 and 8 of this Act *provided* that if the order under reconsideration has theretofore been made mandatory in whole or in part then

the department in making any new order or confirming any old order shall have power to declare to what extent such order shall be directory and to what extent mandatory.

§ 13. The department may at any time and from time to time propose such modifications of or additions to any administrative regulations included in any directory or mandatory order without reference to a wage board, as it may deem appropriate to effectuate the purposes of this Act, *provided* such proposed modifications or additions could legally have been included in the original order, and notice shall be given of a public hearing to be held by the department not less than fifteen days after such publication at which all persons in favor of or opposed to such proposed modification or additions may be heard. After such hearing the department may make an order putting into effect such proposed modifications of or additions to the administrative regulations as it deems appropriate, and if the order of which the administrative regulations form a part has theretofore been made mandatory in whole or in part then the department in making any new order shall have the power to declare to what extent such order shall be directory and to what extent mandatory.

§ 14. All questions of fact arising under this Act except as otherwise herein provided shall be decided by the department and there shall be no appeal from its decision on any such question of fact, but there shall be a right of review by the courts as provided in Section 19 of the "Workmen's Compensation Act," approved June 28, 1913, as amended, from any ruling or holding on a question of law included or embodied in any decision or order of the department.

§ 15. Every employer of women and minor workers shall keep a true and accurate record of the hours worked by each and the wages paid by him to each and shall furnish to the department upon demand a sworn statement of the same. Such records shall be open to inspection by the department at any reasonable time. Every employer subject to a minimum fair wage order whether directory or mandatory shall keep a copy of such order posted in a conspicuous place in every room in which women or minors are employed. Employers shall be furnished copies of orders on request without charge.

§ 16.[1.] Any employer and his agent, or the officer or agent of any corporation who discharges or in any other manner discriminates against any employee because such employee has served or is about to serve on a wage board or has testified or is about to testify before any wage board or in any other investigation or proceeding under or related to this Act or because such employer believes that said employee may serve on any wage board or may testify before any wage board or in any investigation or proceeding under this Act shall be guilty of a misdemeanor and upon conviction be punished by a fine of not less than fifty nor more than two hundred dollars.

2. Any employer or the officer or agent of any corporation who pays or agrees to pay to any woman or minor employee less than the rates applicable to such woman or minor under a mandatory minimum fair wage order shall be guilty of a misdemeanor and upon conviction be punished by a fine of not less than fifty nor more than two

hundred dollars or by imprisonment of not less than ten nor more than ninety days or by both such fine and imprisonment and each week in any day of which such employee is paid less than the rate applicable to him under a mandatory minimum fair wage order and each employee so paid less shall constitute a separate offense.

3. Any employer or the officer or agent of any corporation who fails to keep the records required under this Act or to furnish such records to the department upon request shall be guilty of a misdemeanor and upon conviction be punished by a fine of not less than twenty-five nor more than one hundred dollars, and each day of such failure to keep the records requested under this Act or to furnish same to the department shall constitute a separate offense.

§ 17. If any woman or minor worker is paid by his employer less than the minimum fair wage to which he is entitled under or by virtue of a mandatory minimum fair wage order he may recover in a civil action the full amount of such minimum wage less any amount actually paid to him by the employer together with costs and such reasonable attorney's fees as may be allowed by the court, and any agreement between him and his employer to work for less than such mandatory minimum fair wage shall be no defense to such action. At the request of any woman or minor worker paid less than the minimum wage to which he was entitled under a mandatory order the department may take an assignment of such wage claim in trust for the assigning employee and may bring any legal action necessary to collect such claim, and the employer shall be required to pay the costs and such reasonable attorney's fees as may be allowed by the court.

§ 18. If any provisions of this Act or the application thereof to any person or circumstance, is held invalid the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

§ 19. [Repealed by Act approved July 2, 1935.]

Approved July 6, 1933.

WOMEN'S EQUAL PAY

(Ill. Rev. Stat. Ch. 48, Pars. 4a-4b)

An Act *to abolish the discrimination between sexes in the payment of wages, and to provide a penalty for the violation thereof.*

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

Section 1. Any employer of six or more persons in this state employing both males and females in the manufacture of any article, who shall pay any female engaged in such manufacture an unequal wage for equal work, by time or piece work, than is being paid to males employed in such manufacture, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than Twenty-five ($25.00) Dol-

lars nor more than One Hundred ($100.00) Dollars; *provided, however,* that nothing herein contained shall prohibit a variation in rates of pay based upon either difference in seniority, experience, training, skill or ability, or difference in duties or services performed (whether regularly or occasionally), or difference in availability for other operations, or any other reasonable classification, excepting difference in sex. *Provided, further,* that nothing herein contained shall prohibit such variation where the same is authorized by a contract between an employer and a recognized bargaining agent.

§ 2. Any action based upon or arising under this Act shall be instituted within six months after the date of the alleged violation.

§ 3. This Act shall be effective on July 1, 1944.

APPROVED July 22, 1943.

WORKMEN'S COMPENSATION ACT

(Ill. Rev. Stat. Ch. 48, Pars. 138-172)

AN ACT *to promote the general welfare of the people of this State by providing compensation for accidental injuries or death suffered in the course of employment within this State, and without this State where the contract of employment is made within this State;*

providing for the enforcement and administering thereof, and a penalty for its violation, and repealing an Act entitled, "An Act to promote the general welfare of the people of this State by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911; in force May 1, 1912, as subsequently amended.

SECTION 1. EMPLOYER—NOTICE.] *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That an employer in this State, who does not come within the classes enumerated by Section three (3) of this Act, may elect to provide and pay compensation for accidental injuries sustained by any employee, arising out of and in the course of the employment according to the provisions of this Act, and thereby relieve himself from any liability for the recovery of damages, except as herein provided.

(a) Election by any employer to provide and pay compensation according to the provisions of this Act shall be made by the employer filing notice of such election with the industrial commission, or by insuring his liability to pay compensation under this Act in some insurance carrier authorized, licensed or permitted to do such insurance business in this State.

(b) Every employer within the provisions of this Act who has elected to provide and pay compensation according to the provisions of this Act by filing notice of such election with the industrial commission, shall be bound thereby as to all his employees until January 1st of the next succeeding year and for terms of each year thereafter: *Provided,* any such employer who may have once elected, may elect not to provide and pay the compensation herein provided for accidents resulting in either injury or death and occurring after the expiration of any such calendar year by filing notice of such election with the industrial board at least sixty days prior to the expiration of any such calendar year, and by posting such notice at a conspicuous place in the plant, shop, office, room or place where such employee is employed, or by personal service, in written or printed form, upon such employees, at least sixty (60) days prior to the expiration of any such calendar year. Every employer within the provisions of this Act who has elected to provide and pay compensation according to the provisions of this Act by insuring his liability to pay compensation under this Act, as above provided, shall be bound thereby as to all his employees until the date of expiration or cancellation of such policy of insurance, or any renewal thereof.

(c) In the event any employer mentioned in this section, elects to provide and pay the compensation provided in this Act, then every employee of such employer, as a part of his contract of hiring or who may be employed at the time of the taking effect of this Act and the acceptance of its provisions by such employer, shall be deemed to have accepted all the provisions of this Act and shall be bound thereby unless within thirty (30) days after such hiring or after the taking effect of this Act, and its acceptance by such employee, he shall file a notice to the contrary with the industrial board, whose duty it shall be to immediately notify the employer, and until such notice to

the contrary is given to the employer, the measure of liability of such employer shall be determined according to the compensation provisions of this Act: *Provided, however,* that any employee may withdraw from the operation of this Act upon filing a written notice of withdrawal at least ten (10) days prior to January 1st of any year with the industrial board, whose duty it shall be to immediately notify such employer by registered mail, and, until such notice to the contrary is given to such employer, the measure of liability of such employer shall be determined according to the compensation provisions of this Act.

(d) Any such employer or employee may, without prejudice to any existing right or claim, withdraw his election to reject this Act by giving thirty (30) days' written notice in such manner and form as may be provided by the industrial board. [Amended by Act approved June 10, 1929.]

§ 2. REPEALED.] (By Act approved July 25, 1917.)

§ 3. APPLIES AUTOMATICALLY.] The provisions of this Act hereinafter following shall apply automatically and without election to the State, county, city, town, township, incorporated village or school district, body politic or municipal corporation, and to all employers and all their employees, engaged in any department of the following enterprises or businesses which are declared to be extra hazardous, namely:

1. The erection, maintaining, removing, remodeling, altering or demolishing of any structure, except as provided in sub-paragraph 8 of this section.

2. Construction, excavating or electrical work, except as provided in sub-paragraph 8 of this section.

3. Carriage by land, water or aerial service and loading or unloading in connection therewith, including the distribution of any commodity by horse-drawn or motor driven vehicle where the employer employs more than two employees in the enterprise or business, except as provided in sub-paragraph 8 of this section.

4. The operation of any warehouse or general or terminal storehouses.

5. Mining, surface mining or quarrying.

6. Any enterprise in which explosive materials are manufactured, handled or used in dangerous quantities.

7. In any enterprise wherein molten metal, or explosive or injurious gases or vapors, or inflammable vapors or fluids, or corrosive acids are manufactured, used, generated, stored or conveyed in dangerous quantities.

7½. Any enterprise in which sharp-edged cutting tools, grinders or implements are used, including all enterprises which buy, sell or handle junk and salvage, demolish or reconstruct machinery, except as provided in sub-paragraph 8 of this section.

8. In any enterprise in which statutory or municipal ordinance regulations are now or shall hereafter be imposed for the regulating, guarding, use or the placing of machinery or appliances or for the protection and safeguarding of the employees or the public therein;

each of which occupations, enterprises or businesses are hereby declared to be extra hazardous: *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.

9. Any enterprise, business or work in connection with the laying out or improvement of subdivisions of tracts of land.

10. Any enterprise for the treatment of cross-ties, switch-ties, telegraph poles, timber or other wood with creosote or other preservatives. [Amended by Act approved June 10, 1929.]

§ 3½. [Repealed by Act approved July 3, 1931.]

§ 4. TERM "EMPLOYER"—HOW CONSTRUED.] 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, and who is engaged in any of the enterprises or businesses enumerated in Section three (3) of this Act, or who at or prior to the time of the accident to the employee for which compensation under this Act may be claimed, shall in the manner provided in this Act, have elected to become subject to the provisions of this Act, and who shall not, prior to such accident, have effected a withdrawal of such election in the manner provided in this Act. [Amended by Act approved June 25, 1917.]

§ 5. TERM "EMPLOYEE"—HOW CONSTRUED.] The term "employee" as used in this Act, shall be construed to mean:

First—Every person in the service of the State, including all persons in the service of the University of Illinois on or after January 25, 1933, except members of the instructional, research, and administrative staffs thereof when not, at the time of the injury, actually engaged in an occupation declared to be extra-hazardous in Section three (3) of this Act, 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 two 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: *Provided,* that any such 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 persons whose employment is outside of the State of Illinois where the contract of hire is made within the State of Illinois, and including aliens, and minors who, for the purpose of this Act 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: *Provided, however,* that any employer may elect to provide and pay compensation to any employee other than those engaged in the usual course of the trade, business, profession or occupation of the said employer by complying with Section 1 of this Act: *Provided, further,* that employees shall not be included within the provisions of this Act when excluded by the laws of the United States relating to liability of employers to their employees for personal injuries where such laws are held to be exclusive. [Amended by Act approved July 6, 1935.]

§ 6. EMPLOYEE'S RIGHT TO RECOVER DAMAGES.] No common law or statutory right to recover damages for injury or death sustained by any employee while engaged in the line of his duty as such employee, other than the compensation herein provided, shall be available to any employee who is covered by the provisions of this Act, to any one wholly or partially dependent upon him, the legal representatives of his estate, or any one otherwise entitled to recover damages for such injury; *provided, however,* that in any action now pending or hereafter begun to enforce a common law or statutory right to recover damages for negligently causing the injury or death of any employee it shall not be necessary to allege in the declaration that either the employee or the employer or both were not governed by the provisions of this Act or of any similar Act in force in this or any other State: *Provided, further,* that any illegally employed minor or his legal representatives shall, except as hereinafter provided, have the right, within six months after the time of injury or death, to file with the commission a rejection of his right to the benefits under this Act,

in which case such illegally employed minor or his legal representatives shall have the right to pursue his or their common law or statutory remedies to recover damages for such injury or death; and *provided, further,* that no payment of compensation under this Act shall be made to an illegally employed minor, or his legal representatives, unless such payment has first been approved by the commission or any member thereof, and if such payment has been so approved such payment shall be a bar to a subsequent rejection of the provisions of this Act. [Amended by Act approved July 3, 1931.]

§ 7. AMOUNT OF COMPENSATION—FATAL CASES.] The amount of compensation which shall be paid for an injury to 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 injury, 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 same 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 injury.

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 injury 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 payments 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 paragraphs (a) or (b) of this section and the employee leaves any parent or parents, child or children, who at the time of injury 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 injury to the employee upon his earnings to the extent of fifty per-centum 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 paragraph (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 four 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 disbursement 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 State Treasurer, or his duly authorized representative, shall be named as a party to all proceedings and receive the usual and customary notices of hearing in all cases involving claim for the loss of, or the permanent and complete loss of the use of one eye, one foot, one leg, one arm or one hand. In case of settlement contract or award involving the loss of, or the permanent and complete loss of the use of any one of the said members, it shall be the duty of the Industrial Commission, or a Commissioner or Arbitrator thereof, to award to the said Special Fund provided for in paragraph (e) of this section, the sum payable under sub-paragraph (20) of paragraph (e) of Section 8 to be paid by the employer or the insurance carrier if such employer is insured.

The industrial commission shall, within ten days after the rendition of any award providing for payment 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 paragraph (g) of Section 19 of 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 accidental injury was not given the employer within thirty days 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.

In all cases involving disputed dependency claims it shall be the duty of the person filing such claim for or on behalf of the alleged dependents or for the funeral bill to name the State Treasurer as ex-officio custodian of the Fund, provided for in Section 7, paragraph (e), as a party to the said application for adjustment of claim. The said State Treasurer, or his duly authorized representative, shall have all rights of participation in the hearing and review of decisions as is provided under the provisions of this Act. For the purpose of administration, receipts and disbursements, the Special Fund provided for in paragraph (e) of this section shall be administered jointly with the Special Fund provided for in Section 7, paragraph (e) of the Workmen's Occupational Diseases Act. *Provided, further,* that at no time shall there be paid into said special fund on account of any one death a sum to exceed four hundred dollars.

(f) All compensation, except for burial expenses provided in this section to be paid in case injury 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 the 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 injury 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 injury 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 obligations 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 the employee.

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

dren 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 injured employee is under sixteen years of age at the time of the accident and is 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 per centum of the compensation provided in paragraphs (a), (b) and (c) of this section, except as otherwise provided by treaty.

(k) Where death occurs to an employee as a result of an injury sustained to an employee on or after July 1, 1941, and before July 1, 1943, compensation as provided in paragraphs (a), (b), (c), (d) and (h) of this section shall be computed according to the provisions of this section exclusive of this paragraph and paragraph (l) and after so computed shall be increased ten per centum. Such increase shall be accomplished by increasing the aggregate amount only; *provided, however,* that in no case shall this paragraph operate to provide an aggregate increase of more than ten per centum of the aggregate compensation which but for this paragraph would be payable.

(l) Where death occurs to an employee as a result of an injury sustained to an employee on or after July 1, 1943, compensation as provided in paragraphs (a), (b), (c), (d), and (h) of this section shall be computed according to the provisions of this section exclusive of paragraph (k) and this paragraph and after so computed shall be increased seventeen and one-half per centum. Such increase shall be accomplished by increasing the aggregate amount only; *provided, how-*

ever, that in no case shall this paragraph operate to provide an aggregate increase of more than seventeen and one-half per centum of the aggregate compensation which but for this paragraph would be payable.

[Amended by Act approved July 15, 1943.]

§ 8. AMOUNT OF COMPENSATION—NON-FATAL CASES.] The amount of compensation which shall be paid to the employee for an injury not resulting in death shall be:

(a) 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 the injury. The employee may elect to secure his own physician, surgeon and hospital services at his own expense. Any injury resulting in the amputation of an arm, hand, leg or foot, or the enucleation of any eye, or the loss of any of the natural teeth, the employer shall furnish an artificial of any such member lost in accidental injury 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 per centum of the earnings, but not less than $7.50 nor more than $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 injury at the time thereof, 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 twenty-eight days from the day of the injury, then compensation shall commence on the day after the injury.

(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 injury at the time thereof, 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 paragraph (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 injury for which injury compensation is not payable under paragraph

(d), (e) or (f) of this section, compensation for such disfigurement may be had under this paragraph.

(d) If, after the injury 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 accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident.

(d-1) An injured employee, to be entitled to compensation for hernia, must prove:

1. The hernia was of recent origin;
2. Its appearance was accompanied by pain;
3. That it was immediately preceded by trauma arising out of and in the course of the employment;
4. That the hernia did not exist prior to the injury.

(e) For injuries in the following schedule, the employee shall receive compensation for the period of temporary total incapacity for work resulting from such injury, 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 injuries 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 precentum 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 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 or 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 accident for which he claims compensation, had before that time sustained an injury resulting in the loss by amputation or partial loss by amputation of any member, including hand, arm, thumb or fingers, leg, foot, or any toes, such loss or partial loss of any such member or the sight of an eye shall be deducted from any award made for the subsequent injury, and for the permanent total loss of use or the permanent partial loss of use of any such member for which compensation has been paid, then such loss shall be taken into consideration and deducted from any award for the subsequent injury.

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 in one accident, or the permanent and complete loss of use thereof, suffered in one accident, 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 suffered the loss or permanent and complete loss of the use of any of said members, and in a subsequent independent accident loses another or suffers the permanent and complete loss of the use of any one of said members, the employer for whom the injured employee is working at the time of said last independent accident 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 accident.

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 injured employee from other causes than such injury, leaving a widow and/or lineal dependents surviving before payment in full for such injury, then and in that event the balance remaining due for such injury shall be payable to such dependents, in the proportion which such dependency bears to total dependency.

20. In every case of loss of, or permanent and complete loss of use of one eye, one foot, one leg, one arm or one hand, the employer in addition to the compensation as provided for in this section shall pay into the special fund provided for in Section 7, paragraph (e), the sum of two hundred twenty-five dollars, if the accidental injury occurs between July 1, 1939, and July 1, 1941, both dates inclusive; thereafter the amount payable into the said special fund shall be one hundred dollars for the loss of, or permanent and complete loss of use of any such member; *provided, however,* that the payments herein fixed at one hundred dollars may on and after the date when payments in such amount become effective, be suspended or reduced as herein provided, but in no event shall such payments be increased to exceed one hundred dollars.

Beginning July first, 1941, and each July first thereafter, the Industrial Commission shall determine the expenditures to be made from the said special fund for the ensuing six months. If, upon such determination made by the Commission there shall be found to be in excess of fifty thousand dollars or more in the said special fund over and above the expenditures to be made therefrom during the ensuing six months, the Industrial Commission shall by order posted in its offices, suspend payments at the rate of one hundred dollars in this paragraph provided or reduce the amount payable to a sum less than said one hundred dollars, but sufficient to maintain such fifty thousand dollars excess, and such suspension or change in payments at the rate of one hundred dollars shall be effective with respect to accidental injuries occurring on or after the date of such order.

(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 injury, 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 injury at the time thereof, 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 injury at the time thereof, 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 injury, 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 injury, 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 original injury 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 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 when the last injury was incurred, 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 injured employee shall be weekly paid, the num-

ber of weeks' compensation which shall be paid by the employer, the date upon which payments shall begin out of the fund provided for in paragraphs (d) and (e) of Section 7 of this Act, the length of time said weekly payments shall continue, 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 injured 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 injured 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 the injury 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 accident. In case an injured 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 mentally 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 injury, 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 injured employee prior to the filing of application for adjustment of claim, 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 injuries and only such injuries 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 injured 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 injury 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 case of an employee having one child under the age of 16 years at the time of the injury to the employee;

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

$13.00 in case of an employee having three children under the age of 16 years at the time of the injury to 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 injury to 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 injury to the employee.

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

(k) In case the injured employee is under sixteen years of age at the time of the injury 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.

(l) Where the accidental injury occurs on or after July 1, 1939, and before July 1, 1943, compensation due the injured employee during his lifetime under this section shall be computed according to the provisions of this section exclusive of this paragraph and paragraph (m), and after so computed shall be increased ten percentum. Such increase shall be accomplished by increasing each installment, and maximums otherwise applicable to the installment rate and the aggregate amount may be exceeded only by such increase; *provided* that in no case shall this paragraph operate to provide an aggregate increase of more than ten percentum of the aggregate compensation which but for this paragraph would be payable; *provided, further,* that this paragraph shall operate to increase the installment rate but not the aggregate amount payable to beneficiaries in cases of injuries resulting in death except as to those injuries occurring on or after July 1, 1941 and before July 1, 1943.

In applying the increase hereunder to compensation for disfigurement, the aggregate amount fixed by agreement or by arbitration shall be 10% greater than provided by paragraph (c) of this section, and the maximum, including such increase, shall be deemed 27½% instead of one-quarter of what the death benefit would have been.

(m) Where the accidental injury occurs on or after July 1, 1943, compensation due the injured employee during his lifetime under this section shall be computed according to the provisions of this section, exclusive of paragraph (l) and this paragraph, and after so computed shall be increased seventeen and one-half percentum. Such increases shall be accomplished by increasing each installment, and maximums otherwise applicable to the installment rate and the aggregate amount may be exceeded only by such increase; *provided* that in no case shall this paragraph operate to provide an aggregate increase of more than seventeen and one-half percentum of the aggregate compensation which but for this paragraph would be payable; *provided, further,* that this paragraph shall operate to increase the installment rate but not the aggregate amount payable to beneficiaries in cases of injuries resulting in death except as to those injuries occurring on or after July 1, 1943.

In applying the increase hereunder to compensation for disfigurement, the aggregate amount fixed by agreement or by arbitration shall be 17½% greater than provided by paragraph (c) of this section, and the maximum, including such increase, shall be deemed 29⅜% instead of one-quarter of what the death benefit would have been.

[Amended by Act approved July 15, 1943.]

§ 9. WHERE PAYMENT IN LUMP SUM DESIRED.] 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 rests. *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 injury, 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 so under disability.

The payment of compensation in a lump sum to the employee in his lifetime upon order of the Industrial Commission, shall extinguish and bar all claims for compensation for death if the compensation paid in a lump sum represents a compromise of a dispute on any question other than the extent of disability.

Subject to the provisions herein above in this paragraph contained, where no dispute exists as to the fact that the accident arose out of and in the course of the employment and where such accident results in death or in the amputation of any member or in the enucleation of any 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 injury in accordance with the provisions of Section 7 or paragraph (e) of Section 8 of this Act. [As amended by Act approved July 24, 1939.]

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

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

(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 accident, uninterrupted by absence from work due to illness or any other unavoidable cause.

(c) If the injured person has not been engaged in the employment of the same employer for the full year immediately preceding the accident, 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 earnings: *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 injured 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 accident for which he claims compensation, was disabled and drawing compensation under the terms of this Act, the compensation for each subsequent injury shall be apportioned according to the proportion of incapacity and disability caused by the respective injuries which he may have 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. COMPENSATION MEASURE OF RESPONSIBILITY EMPLOYER ASSUMED UNDER ACT.] The compensation herein provided, together with the provisions of this Act, shall be the measure of the responsibility of any employer engaged in any of the enterprises or businesses enumerated in Section three (3) of this Act, or of any employer who is not engaged in any such enterprises or businesses, but who has elected to provide and pay compensation for accidental injuries sustained by any employee arising out of and in the course of the employment according to the provisions of this Act, and whose election to continue under this Act, has not been nullified by any action of his employees as provided for in this Act. [Amended by Act approved June 25, 1917.]

§ 12. INJURED EMPLOYEE MUST SUBMIT TO EXAMINATION.] 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 proba-

ble duration of the injury received 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 cost 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 surgeon engaged by the employer, and the injured employee has no surgeon present at such examination, it shall be the duty of the surgeon making the examination at the instance of the employer to deliver to the injured employee, or his representative, a statement in writing of the condition and extent of the injury to the same extent that said 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 forty-eight hours before 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 surgeon refuses to furnish the employee with such statement to the same extent as that furnished the employer, said surgeon shall not be permitted to testify 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 surgeons treating an injured employee who is likely to die, and treating him at the instance of the employer, to have called in another surgeon to be designated and paid for by either the injured employee or by the person or persons who would become his beneficiary or beneficiaries, to make an examination before the death of such injured employee.

In all cases where the examination is made by a surgeon engaged by the injured employee, and the employer has no surgeon present at such examination, it shall be the duty of the surgeon making the examination at the instance of the employee, to deliver to the employer, or his representative, a statement in writing of the condition and extent of the injury to the same extent that said 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 forty-eight hours

before 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 surgeon refuses to furnish the employer with such statement to the same extent as that furnished the employee, said surgeon shall not be permitted to testify at the hearing next following said examination. [Amended by Act approved July 6, 1935.]

§ 13. INDUSTRIAL BOARD CREATED—APPOINTMENT—TERM OF OFFICE.] (a) There is hereby created a board which shall be known as the Industrial Board to consist of five members to be appointed by the Governor, by and with the consent of the Senate, two of whom shall be representative citizens of the employing class operating under this Act, and two of whom shall be representative citizens of the class of employees operating under this Act, and one of whom shall be a representative citizen not identified with either the employing or employee classes and who shall be designated by the Governor as chairman. Appointment of members to places on the first board or to fill vacancies on said board may be made during recesses of the Senate, but shall be subject to confirmation by the Senate at the next ensuing session of the Legislature.

(b) When there shall become effective the Act known as "The Civil Administrative Code of Illinois," being an Act entitled, "An Act in relation to the civil administration of the State Government," there shall thereupon be vested in the Industrial Commission and the industrial officers thereof by said Act created, all of the power and duties vested in the Industrial Board by the Workmen's Compensation Act, and thereupon wherever in the Workmen's Compensation Act reference shall be made to the Industrial Board, the board or to any member thereof, it shall be construed as referring and shall apply to the said Industrial Commission, the said commission, and any industrial officer thereof, respectively. [Amended by Act approved June 25, 1917.]

§ 14. SALARY—SECRETARY—CLERKS—SEAL.] The salary of each of the members of the commission appointed by the Governor shall be six thousand ($6,000.00) per year, except that the salary of the chairman shall be seven thousand five hundred dollars ($7,500.00) per year. The commission shall appoint a secretary whose salary shall be five thousand dollars ($5,000.00) per year, an assistant secretary and a security supervisor, whose salary shall be four thousand dollars ($4,000.00) per year each, and shall employ such assistants and clerical help as may be necessary.

The salary of the arbitrators designated by the commission shall be at the rate of five thousand dollars ($5,000.00) per year.

The members of the 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. The commission shall provide itself with a seal for the authentication of its orders, awards and proceedings upon which shall be inscribed the

name of the commission and the words "Illinois—Seal." The secretary or assistant secretary, under the direction of the industrial commission, shall have charge and custody of the seal of the commission and also charge and custody of all records, files, orders, proceedings, decisions, awards and other documents on file with the commission. He 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. [Amended by Act approved March 16, 1936.]

§ 15. ADMINISTRATION OF ACT.] The industrial commission shall administer this act.

[Amended by Act approved June 3, 1943.]

*§ 16. RULES AND ORDERS—PROCEDURES—POWERS.] The industrial commission shall make and publish rules and orders for carrying out the duties imposed upon it 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 shall be taken through the appropriate judicial authority of that country; or where treaties provide for other methods of taking depositions, they may be taken as in such treaties provided. The commission may adopt rules to govern the issue of such dedimus potestatem. The commission, or any member thereof, or any arbitrator designated by the commission may administer oaths, subpoena and examine witnesses, issue subpoenas duces tecum requiring the production of such books, papers, records and documents as may be evidence of any matter under inquiry and examine and inspect the same and such places or premises as may relate to the question in

* This section was amended twice by the Sixty-third General Assembly.

dispute. The commission or any member thereof, or any arbitrator designated by the 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 the applications, *providing, however,* that the parties applying for such subpoenas shall advance the officer and witness fees provided for in suits pending in the Circuit Court, except as otherwise provided by section 19a of this Act. 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 the 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 on a 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 injured 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 stenographer shall furnish a transcript of the 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, except as otherwise provided by section 19a of this Act.

The commission may 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 or rendered in securing any right under this Act.

[Amended by Act approved June 3, 1943.]

§ 16. Rules and orders—Procedure—Powers.] The board 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 board shall be as simple and summary as reasonably may be. The board 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 judicial 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 board shall have the power to adopt necessary rules to govern the issue of such dedimus potestatem. The board, or any member thereof, or any arbitrator designated by said board 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 board, or any member thereof, or any arbitrator designated by said board, 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, except as otherwise provided by Section 19a of this Act. Service of such subpoena shall be made by any sheriff or constable or other person. In case any person refuses to comply with an order of the board or subpoenas issued by it or by any member thereof, or any arbitrator designated by said board 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 board or any arbitrator designated by the board, shall compel obedience by attachment proceedings, as for contempt, as in a case of disobedience of the requirements of a subpoena from such court on a 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 injured 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 board at its expense shall provide an official court reporter to take the testimony and record of proceedings at the hearings before an Arbitrator, committee of arbitration, or the board, who shall furnish a transcript of such testimony or proceedings to either party requesting it, upon payment to him therefor of fourteen cents per

one hundred words for the original and ten cents per one hundred words for each copy of such transcript, except as otherwise provided by Section 19a of this Act.

The board 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. [Amended by Act approved July 15, 1943.]

§ 17. BLANK FORMS—BOOKS AND RECORDS.] The Industrial Commission shall cause to be printed and furnish free of charge upon request by any employer or employe such blank forms as may facilitate or promote efficient administration, 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 declination or withdrawal 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 employe who shall file such a notice of declination or withdrawal, 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 may destroy all papers and documents 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.

[Amended by Act approved June 3, 1943.]

§ 18. QUESTIONS DETERMINED BY INDUSTRIAL BOARD.] 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.

[Amended by Act approved June 3, 1943.]

§ 19. DISPUTED QUESTION OF LAW OR FACT.] Any disputed questions of law of 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 either party, be determined by a committee of arbitration, which election for determination by a committee shall be made by petitioner filing with the commission his election in writing with his petition or by the 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 either of the parties having filed their election for a committee of arbitration as above provided, to notify both parties to appoint their respective representatives on the committee of arbitration. The commission shall designate an arbitrator to act as chairman, and if either party fails to appoint its

members 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, except as otherwise provided by Section 19a of this Act, 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 of the parties 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.

(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 injury 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 injured 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.

The fees and the payment thereof of all attorneys and physicians for services authorized by the commission under this Act shall, upon request of either the employer or the employee or the beneficiary affected, be subject to the review and decision of the industrial commission.

(d) If any employee shall persist in insanitary or injurious practices which tend to either 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 injured 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 commissioner 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 re-

viewed, 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 nova 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 hereinbefore provided for in paragraphs (b) and (c) 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 and the City Court of the City, if it has more than twenty-five thousand (25,000) inhabitants, where any of the parties defendant may be found shall by writ of certiorari to the industrial commission have power to review all questions of law and fact presented by such record.

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 or City Court, unless the party commencing the proceedings for review in the Circuit or City Court as above provided, shall pay to the commission the sum of fourteen cents per one hundred words of testimony taken before said commission, and eight cents per one hundred words of all other matters contained in such record, except as otherwise provided by Section 19a of this Act, and it shall be the duty of the commission upon such payment, or failure to pay as permitted under Section 19a of this Act, 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 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 or City Court a receipt showing payment of the sums so determined to the secretary of the industrial commission, except as otherwise provided by Section 19a of this Act.

(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 or City 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 sixty days after the rendition of the Circuit or City 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 or judgment or order of the Circuit or City 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 to promptly 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 or to the City Court of the city in which such accident occurred or either of the parties are residents, whereupon said court shall render a judgment in accordance therewith; and in case where the employer refused 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 or City 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 notice 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 injured employee dies, then in any subsequent proceedings 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 case 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. [Amended by Act approved July 15, 1943.]

§ 19a. COSTS WHEN EMPLOYEE IS POOR PERSON.] If the commission shall, before or after any hearing, proceeding, or review to any court, be satisfied that the employee is a poor person, and unable to pay the costs and expenses provided for by this Act, the commission shall permit such poor person to have all the rights and remedies provided by this Act, including the issuance and service of subpoenas; a transcript of testimony and the record of proceedings at hearings before an arbitrator, committee of arbitration, or the board; the right to elect for a committee of arbitration; the right to have the record of proceedings certified to the Circuit Court; the right to the filing of a praecipe for a writ of certiorari; and the right to the issuance of a writ of certiorari, without the filing of a bond for costs and without the payment of any of the costs provided for by this Act; *provided* that the commission shall not be required to furnish photostatic copies of exhibits unless the cost thereof shall have been deposited with the Commission; *provided, further,* that if an award is granted to such employee, or settlement is made, the costs and expenses chargeable to said employee as provided for by this Act shall be paid by the employer out of the award herein granted, or settlement, before any of the balance of said award or settlement shall be paid to the employee.

[Amended by Act approved July 15, 1943.]

§ 20. INDUSTRIAL BOARD TO REPORT TO GOVERNOR.] 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, and may prepare and issue such special bulletins and reports from time to time as may seem advisable.

[Amended by Act approved June 3, 1943.]

§ 21. AWARD NOT SUBJECT TO LIEN—DEATH.] No payments, 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 injury to 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, not withstanding the death of the beneficiary. [Amended by Act approved June 10, 1929.]

§ 22. CONTRACT WITHIN SEVEN DAYS AFTER INJURY PRESUMED FRAUDULENT.] 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 injury shall be presumed to be fraudulent.

§ 23. WAIVER OF PROVISIONS MUST BE APPROVED BY INDUSTRIAL BOARD.] 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.

A minor death beneficiary, by parent or grandparent as next friend, may compromise disputes and may enter into and submit a settlement contract or lump sum petition, and upon approval by the Industrial Commission such settlement contract or lump sum order shall have the same force and effect as though such minor had been an adult. [Amended by Act approved July 24, 1939.]

§ 24. NOTICE OF ACCIDENT—LIMIT OF TIME FOR FILING CLAIM.] No proceedings for compensation under this Act shall be maintained unless notice of the accident has been given to the employer as soon as practicable, but not later than thirty days after the accident, except in cases of hernia, in which cases notice shall be given the employer within fifteen days after the accident. 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 by this Act provided shall not begin to run against said mental incompetents until a conservator or guardian has been appointed: *Provided*, that where such limitation bars an adult mentally competent member of a class of beneficiaries entitled to receive compensation for death, such limitation shall then bar all beneficiaries notwithstanding that another or others be mentally or otherwise incapacitated or incompetent. No defect or inaccuracy of such notice shall be a bar to the maintenance of proceedings of 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 accident shall give the approximate date and place of the accident, if known, and 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 months after the accident, *provided*, that in any case,

unless application for compensation is filed with the Industrial Commission within one year after the date of the accident, where no compensation has been paid, or within one year after the date of the last payment of compensation, where any has been paid, the right to file such application shall be barred; *Provided, further,* that if the accidental injury results in death within said year, application for compensation for death may be filed with the Industrial Commission within one year after the date of death, but not thereafter. [Amended by Act approved July 24, 1939.]

§ 25. How employer may be relieved of liability for compensation.] Any employer against whom liability may exist for compensation under this Act shall upon the order and direction of the industrial commission:

(a) Deposit the commuted value of the total unpaid compensation for which such liability exists, computed at three percentum per annum in the same manner as provided in Section 9, with the State Treasurer, or county treasurer in the county where the accident happened, or with any State or National bank or trust company doing business in this State, or in some other suitable depository approved by the industrial commission: *Provided,* that any such depository to which such compensation may be paid, shall pay the same out in installments as in this Act provided, unless such sum is ordered paid in, and is commuted to a lump sum payment in accordance with the provisions of this Act; or

(b) Purchase an annuity, in an amount of compensation due or computed, under this Act within the limitation provided by law in any insurance company granting annuities and licensed or permitted to do business in this State which may be designated by the employer or the industrial commission. [Amended by Act approved June 29, 1921.]

§ 26. Provision to be made by employer electing to pay compensation—Approval of industrial board—When provision not made or not approved—Insurance liability—Failure to comply.]

(a) Any employer who shall come within the provisions of Section 3 of this Act, and any other employer who shall elect 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.

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; all policies of such insurance carriers insuring the payment of compensation under this Act shall cover all the employees and the entire compensation liability of the insured, and any provision in such policy, or in any endorsement attached thereto, attempting to limit or modify in any way, the liability of the insurance carriers issuing the same shall be wholly void; *provided,* that nothing herein contained shall apply to policies of excess liability carriage secured by employers who have qualified under subparagraphs 1 and 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 ten 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 affecting workmen's compensation insurance in this State shall be insolvent, financially unsound, or unable to fully 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 indivduals, 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: *Provided,* that the penalty hereinafter provided for in this paragraph shall not attach and shall not begin to run until the final determination of the order of the commission.

(d) The failure or neglect of an employer to comply with any of the provisions of paragraph (a) 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.

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 to immediately 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. [Amended by Act approved July 10, 1935.]

§ 27. NOT AFFECT CONTINUANCE OF ANY EXISTING INSURANCE, ETC.—NOT PREVENT EMPLOYER FROM INSURING—EMPLOYEE MAY INSURE FOR ADDITIONAL BENEFITS.] (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 costs 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 associa-

tion 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 misdemeanor 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. WHEN INSURANCE CARRIER BECOMES PRIMARILY LIABLE.] 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 by 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. [Amended by Act approved June 28, 1919.]

§ 29. WHERE INJURY CAUSED UNDER CIRCUMSTANCES CREATING A LEGAL LIABILITY IN SOME PERSON OTHER THAN THE EMPLOYER.] Where an injury 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 be bound by this Act, or being bound thereby under Section three (3) of this Act, then 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 injury or death of such employee.

Where the injury 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 having elected not to be bound by 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 injured 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 injured 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, of 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 injury 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 employer, 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 injury 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. [Amended by Act approved July 9, 1935.]

§ 30. REPORT OF ACCIDENT, ETC., BY EMPLOYER TO INDUSTRIAL BOARD.] Every employer subject to this act shall send to the Industrial Commission in writing an immediate report of all accidental injuries arising out of and in the course of the employment and resulting in death. Every such employer shall also report between the 15th and the 25th of each month to the Industrial Commission all accidental injuries for which compensation has been paid under this Act, which injuries entail a loss to the employee of more than one week's time, and in case the injury 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 from such injury. All reports shall state the date of the injury, including the time of day or night, the nature of the employer's business, the name, address, the age, sex, conjugal condition of the injured person, the specific occupation of the

injured person, the direct cause of the injury and the nature of the accident, the character of the injury, the length of disability, and, in case of death, the length of disability before death, the wages of the injured person, whether compensation has been paid to the injured person, 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 such reports shall release the employer from making such reports to any other officer of the State. [Amended by Act approved June 3, 1943.]

§ 30½. PRINTED NOTICES OF RULES, ETC., TO BE POSTED.] Every employer within the 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 in event of injury. [Added by Act approved July 8, 1933.]

§ 31. WHO INCLUDED IN TERM "EMPLOYER" — CONTRACTING WITH OTHERS TO DO THE WORK.] Any one engaging in any business or enterprise referred to in Sub-sections 1 and 2 of Section 3 of this Act who undertakes to do any work enumerated therein, shall be liable to pay compensation to his own immediate employees in accordance with the provisions of this Act, and in addition thereto if he directly or indirectly engages any contractor whether principal or sub-contractor to do any such work, he shall be liable to pay compensation to the employees of any such contractor or sub-contractor unless such contractor or sub-contractor shall have insured, in any company or association authorized under the laws of this State to insure the liability to pay compensation under this Act, or guaranteed his liability to pay such compensation.

In the event any such person shall pay compensation under this section he may recover the amount thereof from the contractor or sub-contractor, if any, and in the event the contractor shall pay compensation under this section he may recover the amount thereof from the sub-contractor, if any.

This section shall not apply in any case where the accident occurs elsewhere than on, in or about the immediate premises on which the principal has contracted that the work shall be done. [Amended by Act approved June 28, 1919.]

§ 32. RIGHT OF ACTION ACCRUING BEFORE TAKING EFFECT OF THIS ACT—IF THIS ACT REPEALED, ETC.—CLAIM UNDER PREVIOUS ACT HOW ADJUSTED.] If any of the provisions of this Act providing for compensation for injuries to or death of employees shall be repealed or adjudged invalid or unconstitutional, the period intervening between the occurrence of any injury or death and such repeal or final adjudication of invalidity, shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death, but the amount of any compensation which may

have been paid for any such injury shall be deducted from any judgment for damages recovered on account of such injury. Any claim, disagreement or controversy existing or arising under "An Act to promote the general welfare of the people of this State, by providing, compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912, shall be adjusted in accordance with the provisions of said Act, notwithstanding the repeal thereof, or may by agreement of the parties be adjusted in accordance with the method of procedure provided in this Act for the adjustment of differences, jurisdiction to adjust such differences so submitted by the parties being hereby conferred upon the industrial board or committee of arbitration provided for in this Act. [Amended by Act approved June 25, 1917.]

§ 33. PENALTIES.] Any willful 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.

§ 33½. NAME OF ACT.] This Act may be cited as the Workmen's Compensation Act. [Added by an Act approved June 28, 1915.]

§ 34. INVALIDITY.] The invalidity of any portion of this Act shall in no way effect the validity of any other portion thereof which can be given effect without such invalid part.

§ 35. REPEAL.] That an Act to promote the general welfare of the people of the State of Illinois by providing compensation for accidental injuries or death suffered in the course of employment, approved June 10, 1911, in force May 1, 1912, be, and the same is, hereby repealed.

APPROVED June 28, 1913.

THE UNEMPLOYMENT COMPENSATION ACT

(Ill. Rev. Stat. Ch. 48, Pars. 217-250)

AN ACT *in relation to a system of unemployment compensation.*

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

SECTION 1. DECLARATION OF PUBLIC POLICY.] As a guide to the interpretation and application of this Act the public policy of the State is declared as follows: Economic insecurity due to involuntary unemployment has become a serious menace to the health, safety, morals and welfare of the people of the State of Illinois. Involuntary unemployment is, therefore, a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. Poverty, distress and suffering have prevailed throughout the State because funds have not been accumulated in times of plentiful opportunities for employment for the support of unemployed workers and their families during periods of unemployment, and the taxpayers have been unfairly burdened with the cost of supporting able-bodied workers who are unable to secure employment. Farmers and rural communities particularly are unjustly burdened with increased taxation for the support of industrial workers at the very time when agricultural incomes are reduced by lack of purchasing power in the urban markets. It is the considered judgment of the General Assembly that in order to lessen the menace to the health, safety and morals of the people of Illinois, and to encourage stabilization of employment, compulsory unemployment compensation upon a statewide scale, providing for the setting aside of reserves during periods of employment to be used to pay benefits during periods of unemployment, is necessary.

§ 2. DEFINITIONS.] When used in this Act unless the context indicates otherwise, the term

(a) "Director" means the Director of the Department of Labor and "Department" means the Department of Labor.

(b) "Benefits" means the money payments payable to an individual as provided in this Act, with respect to his unemployment.

(c) "Employment office" means a free public employment office or branch thereof operated by this State or any other state as a part of a state controlled system of public employment offices or by a Federal agency or any agency of a foreign government charged with the administration of an unemployment compensation program or free public employment offices.

(d) "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all purposes of this Act. Whenever any employing unit contracts with or has under it any contractor or subcontractor for any work which is part of its usual trade, occupation, profession, or business, unless such contractor or subcontractor at the same time that he is performing work for such employing unit performs work or is in fact actually available to perform work for anyone who may wish to contract with him, and is also found to be engaged in an independently established trade, business, profession, or enterprise, or unless the employing unit as well as each such contractor or subcontractor is an employer by reason of Section 2, subsection (e), or Section 3, subsection (c) of this Act, the employing unit shall for all purposes of this Act, be deemed to employ each individual in the employ of each such contractor or subcontractor for each day during which such individual is engaged in performing such work; except that each such contractor or subcontractor who is an employer by reason of Section 2, subsection (e), or Section 3, subsection (c) of this Act shall alone be liable for the employers' contributions measured by wages of individuals in his employ, and except that any employing unit who shall become liable for and pay contributions with respect to individuals in the employ of any such contractor or subcontractor who is not an employer by reason of Section 2, subsection (e) or Section 3, subsection (c) of this Act, may recover the same from such contractor or subcontractor. Each individual performing services for or assisting in performing the work of any person in the employment of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this Act, whether such individual was hired or paid directly by such employing unit or by such person, provided the employing unit had actual or constructive knowledge of the work.

(e) "Employer" means:

(1) (A) With respect to the years 1937, 1938 and 1939, any employing unit which has or had in employment eight or more individuals on some portion of a day, but not necessarily simultaneously, and irrespective of whether the same individuals are or were employed on each such day within each of twenty or more calendar weeks, whether or not such weeks are or were consecutive, within either the current or preceding calendar year;

(B) With respect to the year 1940 and thereafter, any employing unit which has or had in employment six or more individuals, within each of twenty or more calendar weeks (but not necessarily simultaneously and irrespective of whether the same individuals are or were employed in each such week), whether or not such weeks are or were consecutive, within either the current or preceding calendar year;

(2) Any individual or employing unit which succeeded to the organization, trade or business of another employing unit which at the time of such succession was an employer, and any individual or employing unit which succeeded to the organization, trade or business of any distinct severable portion of another employing unit, which portion, if treated as a separate employing unit, would have been, at the time of the succession, an employer under paragraph (1) of this subsection;

(3) Any individual or employing unit which succeeded to any of the assets of an employer or to any of the assets of a distinct severable portion thereof, if such portion, when treated as a separate employing unit would be an employer under paragraph (1) of this subsection, by any means whatever, otherwise than in the ordinary course of business, unless and until it is proven in any proceeding where such issue is involved that all of the following exist:

(A) The successor unit has not assumed a substantial amount of the predecessor unit's obligations; and,

(B) The successor unit has not acquired a substantial amount of the predecessor unit's good will; and

(C) The successor unit has not continued or resumed a substantial part of the business of the predecessor unit in the same establishment;

(4) Any individual or employing unit which succeeded to the organization, trade or business, or to any of the assets of a predecessor unit (unless and until it is proven in any proceeding where such issue is involved that all the conditions enumerated in paragraph (3) of this subsection exist), if the experience of the successor unit subsequent to such succession plus the experience of the predecessor unit prior to such succession, both within the same calendar year, would equal the experience necessary to constitute an employing unit an employer subject to this Act under paragraph (1) of this subsection;

For the purposes of paragraph (4) of this subsection, the term "predecessor unit" shall include any distinct severable portion of an employing unit.

(5) Any employing unit which together with one or more other employing units, is owned or controlled, directly or indirectly, by legally enforceable means or otherwise, by the same interests, or which owns or controls one or more other employing units directly or indirectly, by legally enforceable means or otherwise, and which if treated as a single unit with such other employing units or interests or both, would be an employer under paragraph (1) of this subsection.

(6) Any employing unit which, having become an employer under paragraphs (1), (2), (3), (4) or (5) has not, under Section 3, ceased to be an employer subject to this Act; or

(7) For the effective period of its election pursuant to Section 3, subsection (c) any other employing unit which has elected to become fully subject to this Act.

(f) (1) Subject to the other provisions of this subsection, "employment" means any service performed prior to July 1, 1940, which was employment as defined in this section prior to that date, and any service after June 30, 1940, performed by an individual for an employing unit, including service in inter-state commerce and service on land which is owned, held or possessed by the United States, and including all services performed by an officer of a business corporation, without regard to whether such services are executive, managerial or manual in nature, and without regard to whether such officer is or is not a stockholder or a member of the board of directors of the corporation.

(2) The term "employment" shall include an individual's entire service, within or both within and without this State if—

(A) The service is localized in this State; or

(B) The service is not localized in any State but some of the service is performed in this State and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (ii) the base of operations or place from which such service is directed or controlled is not in any State in which some part of the service is performed but the individual's residence is in this State.

(3) (A) Services not covered under paragraph (2) of this subsection and performed entirely without this State with respect to no part of which contributions are required and paid under an unemployment compensation law of any other State or of the Federal Government, shall be deemed to be employment subject to this Act if the Director approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this Act.

(B) Services covered by an arrangement pursuant to Section 28 of this Act between the Director and the agency charged with the administration of any other State or Federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this State, shall be deemed to be employment if the Director has approved an election of the employing unit for whom such serv-

ices are performed, pursuant to which the entire service of such individual during the period covered by such election is deemed to be insured work.

(4) Service shall be deemed to be localized within a State if—

(A) the service is performed entirely within such State; or

(B) the service is performed both within and without such State, but the service performed without such State is incidental to the individual's service within the State.

(5) Services performed by an individual shall be deemed to be employment subject to this Act unless and until it is proven in any proceeding where such issue is involved that—

(A) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and

(B) Such service is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) Such individual is engaged in an independently established trade, occupation, profession or business.

(6) The term "Employment" shall not include—

(A) Agricultural labor. On and after July 1, 1940, the term "agricultural labor" includes all services performed—

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

(3) In connection with the raising or harvesting of mushrooms, the hatching of poultry, the ginning of cotton, or the operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for supplying and storing water for farming purposes.

(4) In handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures

used primarily for the raising of agricultural or horticultural commodities, and orchards.

(B) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority;

(C) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(D) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(E) Service performed in the employ of any other state or its political subdivisions, or of the United States Government, or of an instrumentality of any other state or states or their political subdivisions or of the United States except that, in the event that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments of contributions under a State Unemployment Compensation Act (and to comply with state regulations thereunder), then, to the extent permitted by Congress, and from and after the date as of which such permission becomes effective, all of the provisions of this Act shall be applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; *provided,* that if this State shall not be certified by the Social Security Board under Section 903 of the Social Security Act for any year, then the payments required of such instrumentalities with respect to such year, shall be refunded by the Director in accordance with the provisions of Section 25 of this Act.

(F) Service performed in the employ of this State, or of any political subdivision thereof, or of any wholly owned instrumentality of this State or its political subdivisions;

(G) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation;

(H) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress; *provided,* that the Director is hereby authorized to enter into agreements with the proper agencies under such Act of Congress, which shall become effective ten days after the date of such agreement, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this Act, acquired rights to unemployment compensation under such Act of Congress or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this Act.

(I) (1) Service performed in any calendar quarter in the em-

ploy of any organization exempt from income tax under Section 101 of the Federal Internal Revenue Code, as in effect on July 1, 1940, if—

(a) the remuneration for such service does not exceed $45.00 or

(b) such service is in connection with the collection of dues or premiums for a fraternal beneficiary society, order, or association, and is performed away from the home office, or is ritualistic service in connection with any such society, order, or association.

(2) Service performed in the employ of an agricultural or horticultural organization exempt from income tax under Section 101 (1) of the Federal Internal Revenue Code, as in effect on July 1, 1940.

(J) Services performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news.

(K) Services performed in connection with the illegal recording or making of bets or wagers or the selling of pools upon any contest or race; or in connection with the playing of or betting in any game of chance involving the losing or winning of money or any other thing of value; or in connection with the illegal operation of any lottery whether by dice, lot, numbers, game, hazard or other gambling device.

(L) Services performed in short time work by a minor whose principal occupation is as a student actually in attendance at a public or private school.

(M) Services performed by an individual as an insurance agent or insurance solicitor, if all such services performed by such individual are performed for remuneration solely by way of commission.

(N) Services performed by an individual which are deemed to be performed entirely in another State under the provisions of Section 28.

(O) Services performed in the employ of a voluntary employee's beneficiary association organized for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (a) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (b) 85 percentum or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses.

(7) "Included and excluded services." If the services performed during one-half or more of any pay period by an individual for an employing unit constitute employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an individual for an employing unit do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subsection the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to an individual in the employ of an employing unit. This subsection shall not be applicable with respect to services performed

in a pay period by an individual in the employ of an employing unit, where any of such services is excepted by Section 2(f) (6) (H).

(g) "Wages" means every form of remuneration for personal services, including salaries, commissions, bonuses, and the reasonable money value of all remuneration in any medium other than cash. Where gratuities are customarily received by an individual in the course of his work from persons other than his employing unit, such gratuities shall be treated as wages received from his employing unit. The reasonable money value of remuneration in any medium other than cash and the reasonable amount of gratuities shall be estimated and determined in accordance with rules prescribed by the Director. Such rules shall be based upon the reasonable past experience of such individuals, such work and such employing units.

The term "wages" shall not include:

(1) On and after January 1, 1940, that part of the remuneration which, after remuneration equal to $3,000.00 has become payable to an individual by an employer with respect to employment during the calendar year 1940, becomes payable to such individual by such employer with respect to employment during 1940; and

(2) That part of the remuneration which, after remuneration equal to $3,000.00 has been paid to an individual by an employer with respect to employment during any calendar year occurring after December 31, 1940, is paid to such individuals by such employer with respect to employment during such calendar year. This paragraph and the preceding one shall apply only to Section 18 of this Act.

(3) On and after January 1, 1940, the amount of any payment made to, or on behalf of, a worker under a plan or system established by an employer which makes provision for his workers generally or for a class or classes of his workers (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of (A) retirement, or (B) sickness or accident disability, or (C) medical and hospitalization expenses in connection with sickness or accident disability, or (D) death, *provided* the worker (1) has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employer, and (2) has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer.

(4) Dismissal payments after December 31, 1939, which the employer is not legally required to make.

(h) "Insured work" means services performed in employment for employers.

(i) "Base period" means the twelve consecutive month period ending December 31, immediately preceding the first day of a benefit year.

(j) "Calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent thereof as the Director may by regulation prescribe.

(k) UNEMPLOYMENT. An individual shall be deemed unemployed in any week with respect to which no wages are payable to him and during which he performs no services or in any week of less than full time work if the wages payable to him with respect to such week are less than his weekly benefit amount. The Director shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to total unemployment, part total unemployment, partial unemployment of individuals and other forms of short time work as the Director deems necessary.

Notwithstanding any other provisions of this Act, an individual shall be deemed to be unemployed during a period of six or less consecutive days, if such days occur between the end of a week of unemployment and the beginning of a pay period week of the employing unit for whom he has begun to work, or if such days occur between the end of a week of unemployment for which the claimant's rights to benefits are disputed and the beginning of a period for which the claimant has been paid benefits.

An individual's week of unemployment shall be deemed to commence only after his registration at an employment office, except as the Director may by regulation otherwise prescribe if he finds that the foregoing requirement with respect to registration would be inequitable or administratively impracticable.

(l) "Contributions" means the money payments required from employers for the purpose of paying benefits.

(m) "Week" means such period of seven consecutive days as the Director may by regulation prescribe. The Director may by regulation prescribe that a week shall be deemed to be "in," "within," or "during" any benefit year which includes the greater part of such week.

(n) "Benefit year" means the twelve consecutive month period beginning April 1, except that the first benefit year under this Act shall begin on July 1, 1939, and end on March 31, 1940.

(o) "Board of Review" means The Board of Review created by Section (5) of "The Civil Administrative Code of Illinois," approved March 7, 1917, as amended.

(p) "State" includes, in addition to the states of the United States of America, Alaska, Hawaii, and the District of Columbia.

[Amended by Act approved June 30, 1943.]

§ 3. ELECTION AND TERMINATION OF COVERAGE.] (a) Except as is provided in subsection (c) of this section, any employing unit which is or becomes an employer subject to this Act within any calendar year shall be subject to this Act during the whole of such calendar year.

(b) An employing unit shall cease to be an employer subject to this Act as of the first day of January of any calendar year, only if it files with the Director, prior to the 1st day of February of such year,

a written application for termination of coverage, and the Director finds that the employment experience of such employer within the preceding calendar year was not sufficient to render an employing unit an employer under the provisions of paragraph (1) of Section 2 subsection (e). For the purposes of this subsection, the two or more employing units mentioned in paragraphs (2), (3), (4), or (5) of Section 2, subsection (e), shall be treated as a single employing unit.

(c) (1) An employing unit, not otherwise subject to this Act, which files with the Director its written election to become an employer subject hereto for not less than two calendar years, shall, with the written approval of such election by the Director, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if prior to the 1st day of February of such year it has filed with the Director a written notice to that effect. The Director shall approve any election so filed if he finds that the employment record of the applicant has not been or is not likely to be such as will unduly threaten the full payment of benefits when due under this Act.

(2) Any employing unit for which services that do not constitute employment as defined in this Act are performed, may file with the Director a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this Act for not less than two calendar years. Upon the written approval of such election by the Director, such services shall be deemed to constitute employment subject to this Act from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if prior to the 1st day of February of such year such employing unit has filed with the Director a written notice to that effect. The basis for the approval by the Director of the election under this paragraph shall be the same as that provided under the previous paragraph. [Amended by Act approved June 30, 1941.]

§ 4. (a) PAYMENT OF BENEFITS.] All benefits shall be paid through employment offices, as hereinafter provided, in accordance with such regulations as the Director may prescribe.

(b) WEEKLY BENEFIT AMOUNT.] (1) (A) With respect to the benefit year beginning April 1, 1943, an individual's "weekly benefit amount" shall be an amount equal to five percentum of the total wages for insured work paid to him during that quarter of his base period in which such total wages were highest, except that if such amount is more than eighteen ($18.00) dollars the weekly benefit amount shall be deemed to be eighteen ($18.00) dollars, or if less than seven ($7.00) dollars, shall be deemed to be seven ($7.00) dollars and if not a multiple of fifty cents, shall be computed to the next higher multiple of fifty cents.

(B) With respect to benefit years beginning on and after April 1, 1944, an individual's "weekly benefit amount" shall be an amount equal to five per centum of the total wages for insured work paid to him during that quarter of his base period in which such total wages were highest, except that if such amount is more than twenty ($20.00) dollars the weekly benefit amount shall be deemed to be twenty ($20.00) dollars, or if less than seven ($7.00) dollars, shall be deemed to be seven ($7.00) dollars, and if not a multiple of fifty cents shall be computed to the next higher multiple of fifty cents.

(2) Each eligible individual who is unemployed as defined in Section 2, subsection (k) of this Act, in any week shall be paid, with respect to such week, a benefit in an amount equal to his weekly benefit amount less that part of wages (if any) payable to him with respect to such week which is in excess of two ($2.00) dollars, *provided* that such benefit shall be reduced by one-third (1/3) of the weekly benefit amount for each normal work-day during which such individual is unable to work or unavailable for work, *and provided further* that this sub-section shall not be construed so as to effect any change in the status of part-time workers as defined in Section 5. Such benefit, if not a multiple of one ($1.00) dollar, shall be computed to the next higher multiple of one ($1.00) dollar.

(3) Each eligible individual who is unemployed for a period of six or less consecutive days under the conditions stated in Section 2(k) shall be paid, with respect to such period, a benefit in an amount equal to one-seventh (1/7) of his weekly benefit amount for each such day less that part of wages (if any) payable to him with respect to such period. Such benefit, if not a multiple of one ($1.00) dollar, shall be computed to the next higher multiple of one ($1.00) dollar.

(c) DURATION OF BENEFITS.] Any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of sixteen times his weekly benefit amount or one-fourth of the wages earned by him for insured work during his base period, *provided,* that such total amount of benefits, if not a multiple of one ($1.00) dollar, shall be computed to the next higher multiple of one ($1.00) dollar.

With respect to any benefit year beginning on and after April 1, 1942, any otherwise eligible individual shall be entitled during such benefit year to a maximum total amount of benefits as shall be determined by the total wages paid the individual for insured work during his base period, and shall be the amount appearing in Column B of the following table, opposite the line on which in Column A of such table there appears the wage bracket containing the wages paid such individual, but in no event shall such maximum total amount of benefits exceed twenty times his weekly benefit amount.

A Wages for Insured Work in Base Period	B Maximum Amount of Benefits Payable
$ 225.00 - 274.99	$110.00
275.00 - 324.99	125.00
325.00 - 374.99	140.00

A Wages for Insured Work in Base Period	B Maximum Amount of Benefits Payable
375.00 - 424.99	155.00
425.00 - 474.99	167.00
475.00 - 524.99	180.00
525.00 - 574.99	190.00
575.00 - 624.99	200.00
625.00 - 674.99	210.00
675.00 - 724.99	220.00
725.00 - 774.99	230.00
775.00 - 824.99	240.00
825.00 - 874.99	250.00
875.00 - 924.99	260.00
925.00 - 974.99	270.00
975.00 - 1,024.99	280.00
1,025.00 - 1,074.99	290.00
1,075.00 - 1,124.99	300.00
1,125.00 - 1,174.99	310.00
1,175.00 - 1,224.99	320.00
1,225.00 - 1,274.99	330.00
1,275.00 - 1,324.99	340.00
1,325.00 - 1,374.99	350.00
1,375.00 - and over	360.00

(d) The Director may prescribe regulations to provide for the payment of benefits which are due and payable, to the legal representative, dependents, relatives or next of kin of persons since deceased. Such regulations need not conform with the statutes governing decedent estates, and such payment shall be deemed a valid payment to the same extent as if made to the legal representative of the deceased.

(e) The Director may, for the purpose of determining benefit rights of a claimant, treat wages payable but unpaid as wages paid where such wages are not paid because of the insolvency, bankruptcy or other financial difficulty of the employer.

(f) BENEFITS AFTER TERMINATION OF MILITARY SERVICE.] (1) Notwithstanding any inconsistent provisions of this Act, benefits shall be payable to an otherwise eligible "trainee" in accordance with the following provisions of this subsection. Except as otherwise provided in this subsection, all other provisions of this Act shall continue to be applicable in connection with such benefits.

(2) The term "military service" as used in this subsection means active service in the land or naval forces of the United States, but the service of an individual in any reserve component of the land or naval forces of the United States who is ordered to active duty in any such force for a period of thirty days or less shall not be deemed to be active service in such force during such period.

(3) The term "trainee" as used in this subsection means an individual who entered military service on or after April 1, 1940,

and who continued such service for not less than ninety consecutive days.

(4) A trainee who, at the time of his entry into military service, shall have earned (or been paid, as the case may be) wages for insured work of Two Hundred Twenty-Five ($225.00) Dollars or more during the calendar year immediately preceding the date of his entry into military service shall be deemed to have earned (or been paid, as the case may be) "qualifying wages" with respect to the benefit year current on the date of his discharge from military service and the first benefit year which commences subsequent to the date of his discharge from military service.

(5) With respect to the benefit year current at the time of his discharge from military service, an otherwise eligible trainee who has earned (or been paid, as the case may be) qualifying wages as defined by paragraph 4 of this subsection, shall be deemed to have a weekly benefit amount of Twenty ($20.00) Dollars and shall be entitled, during the remaining period of such benefit year following the date of his discharge from military service, to a maximum total amount of benefits of Three Hundred Sixty ($360.00) Dollars.

(6) With respect to the first benefit year, as defined in Section 2(n)of this Act, which commences subsequent to the date of a trainee's discharge from military service, the total amount of benefits otherwise payable shall be increased by the difference, if any, between the total amount of benefits payable with respect to the trainee's benefit year current at the time of his discharge from military service and the total amount of benefits actually paid with respect to the same benefit year; *provided,* that the total amount of benefits so payable with respect to such next following benefit year shall not exceed Three Hundred Sixty ($360.00) Dollars. The weekly benefit amount of such trainee for such next following benefit year shall be Twenty ($20.00) Dollars.

(7) No waiting period shall be required subsequent to the date of a trainee's discharge from military service with respect to the benefit year current at the time of his discharge from military service nor shall any waiting period be required with respect to the first benefit year, as defined by Section 2(n) of this Act, which commences subsequent to the date of his discharge from military service.

(8) If under an Act of Congress, payments with respect to the unemployment of individuals who have completed a period of military service are payable by the United States, a trainee shall be disqualified under this Act for benefits until he has exhausted all his rights to such payments from the United States.

[Amended by Act approved June 30, 1943.]

§ 5. PART TIME WORKERS.] As used in this section, the term "part time worker" means an individual whose normal work is in an occupation in which his services are not required for the customary scheduled full time hours or days prevailing in the establishment in which he is employed or who, owing to personal circumstances does not customarily work the customary scheduled full time hours or days prevailing in the establishment in which he is employed.

The Director may, in his discretion, after giving interested par-

ties fair notice and opportunity to be heard prescribe fair and reasonable general rules applicable to part time workers for determining their weekly benefit amount and their total wages in insured work required to qualify such workers for benefits. Such rules shall, with respect to such workers, supersede any inconsistent provisions of this Act, but, so far as practicable, shall secure results reasonably similar to those provided in the analogous provisions of this Act. Such rules shall be made with due regard to the customary hours or days during which such individual works in such employment and to the wages payable therefor as compared with the wages that would have been payable therefor if such individual were employed for the full time hours or days during which persons are customarily employed at full time in such work by such employer. [Amended by Act approved May 24, 1939.]

§ 6. ELIGIBILITY FOR BENEFITS.] An unemployed individual shall be eligible to receive benefits with respect to any week only if the Director finds that:

(a) He has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the Director may prescribe, except that the Director may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs, and as to such other types of cases or situations with respect to which he finds that compliance with such requirements would be oppressive or inconsistent with the purposes of this Act, *provided* that no such regulation shall conflict with Section 4 (a) of this Act.

(b) He has made a claim for benefits with respect to such week in accordance with such regulations as the Director may prescribe.

(c) He is able to work, and is available for work, provided that if an otherwise eligible individual is unable to work or is unavailable for work on any normal work-day of the week, he shall be eligible to receive benefits with respect to such week reduced by one-third (1/3) of his weekly benefit amount for each day of such inability to work or unavailability for work; *and provided further* that this sub-section shall not be construed so as to effect any change in the status of part-time workers as defined in Section 5.

An individual shall be considered to be unavailable for work on days listed as whole holidays in "An Act to revise the law in relation to promissory notes, bonds, due bills and other instruments in writing," approved March 18, 1874, as amended; on days which are holidays in his religion or faith, and on days which are holidays according to the custom of his trade or occupation, if his failure to work on such day is a result of the holiday. In determining the claimant's eligibility for benefits, and the amount to be paid him, with respect to the week in which such holiday occurs, he shall have attributed to him as additional earnings for that week an amount equal to one-third (1/3) of his weekly benefit amount for each normal work day in which he does not work because of a holiday of the type above enumerated.

(d) He has been unemployed for a waiting period of one week

during his benefit year. If the greater part of an individual's second week of unemployment in the benefit year falls on and after the effective date of this amendatory Act, he shall, if otherwise eligible, be entitled to benefits with respect thereto. For the purposes of this sub-section only, an individual shall be deemed to be unemployed while receiving public assistance from funds made available to governmental agencies such as the Works Projects Administration, the National Youth Administration or any other similar agency. No week shall be counted as a week of unemployment for the purposes of this subsection:

(1) Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits, *provided* that this requirement shall not interrupt the payment of benefits for consecutive weeks of unemployment; *and provided further* that the week immediately preceding a benefit year, if part of one uninterrupted period of unemployment which continues into such benefit year, shall be deemed (for the purposes of this subsection only) to be within such benefit year, as well as within the preceding benefit year, if the unemployed individual would, except for the provisions of the first paragraph and paragraph (1) of this subsection and of subsection (e) of Section 7, be eligible for and entitled to benefits for such weeks.

(2) If benefits have been paid with respect thereto;

(3) Unless the individual was eligible for benefits with respect thereto except for the requirements of this subsection and of subsection (e) of Section 7;

(4) Unless it occurs after benefits first could become payable to any individual under this Act.

(e) He has during the base period earned wages for insured work equal to not less than two hundred twenty-five ($225.00) dollars and with respect to base periods beginning on and after January 1, 1941, he has been paid during the base period wages for insured work equal to not less than two hundred twenty-five ($225.00) dollars. [Amended by Act approved June 30, 1941.]

§ 7. An individual shall be ineligible for benefits—

(a) For the week in which he has left work voluntarily without good cause and the three weeks which immediately follow such week. In addition, he shall be ineligible for not more than four weeks which immediately follow such weeks as shall be determined by the deputy upon the basis of the facts found by him, in accordance with Section 9 of this Act.

(b) (1) For the week in which he has been discharged for misconduct connected with his work and the three weeks which immediately follow such week. In addition, he shall be ineligible for not more than four weeks which immediately follow such weeks as shall be determined by the deputy upon the basis of the facts found by him, in accordance with Section 9 of this Act.

(2) Notwithstanding any other provisions of this Act, no benefit rights shall accrue to any individual based upon wages from any employer for services rendered prior to the day upon which such indi-

vidual was discharged because of forgery, larceny or embezzlement in connection with his work; *provided,* that the employer notified the Director of such possible ineligibility within the time limits specified by regulations of the Director, and that the individual has admitted his commission of the act of forgery, larceny or embezzlement to a representative of the Director, or such act has resulted in a conviction by a court of competent jurisdiction; *and provided further,* that if by reason of such act, he is in legal custody, held on bail or is a fugitive from justice, the determination of his benefit rights shall be held in abeyance pending the result of any legal proceedings arising therefrom.

(c) If he has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the Director, or to accept suitable work when offered him, or to return to his customary self-employment (if any) when so directed by the employment office or the Director. Such ineligibility shall continue for the week in which such failure occurred and the three weeks which immediately follow such week. In addition, he shall be ineligible for not more than four weeks which immediately follow such weeks as shall be determined by the deputy upon the basis of the facts found by him, in accordance with Section 9 of this Act.

(1) In determining whether or not any work is suitable for an individual, consideration shall be given to the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(2) Notwithstanding any other provisions of this Act, no work shall be deemed suitable and benefits shall not be denied under this Act to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

If the position offered is vacant due directly to a strike, lockout, or other labor dispute; if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; if, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) For any week with respect to which it is found that his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed, *provided,* that this subsection shall not apply if it is shown that (1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work and (2) He does not belong to a grade or class of workers of which immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; *provided,* that if in any case separate branches of work which are commonly con-

ducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises.

(e) For any week with respect to which he has received or is seeking unemployment benefits under an unemployment compensation law of the United States or any other State, *provided,* that if the appropriate agency of the United States or of such other State finally determines that he is not entitled to such unemployment benefits, this ineligibility shall not apply.

(f) For any week with respect to which he is receiving or has received remuneration in the form of compensation for temporary disability under the Workmen's Compensation Act of this State, or under a similar workmen's compensation law of the United States. If such remuneration is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. [Amended by Act approved June 30, 1941.]

§ 8. Repealed by Act approved May 24, 1939.

§ 9. FILING CLAIMS FOR BENEFITS.] (a) Claims for benefits shall be made in accordance with such regulations as the Director may prescribe. Each employer shall post and maintain printed statements concerning such regulations or such other matters as the Director may by regulation prescribe in places readily accessible to individuals in his service. Each employer shall supply to such individuals copies of such printed statements or materials relating to claims for benefits as the Director may by regulation prescribe. Such printed statements shall be supplied by the Director to each employer without cost to the employer.

(b) FINDINGS AND DETERMINATIONS. A representative designated by the Director, and hereinafter referred to as a deputy, shall promptly examine the first claim filed by a claimant for each benefit year and on the basis of the information in his possession shall make a "finding." Such "finding" shall be a statement of the amount of wages for insured work paid to the claimant during each quarter in the base period by each employer. On the basis of the "finding," the deputy shall decide whether or not such claim is valid under Section 6(e), and, if so valid, shall compute the weekly benefit amount payable to the claimant and the maximum amount payable with respect to such benefit year; and shall promptly notify the claimant, and his most recent employing unit thereof. The deputy shall promptly notify the claimant and such other party to the "finding," as the Director may by regulation prescribe, of his "finding," to the extent of such party's interest in the "finding."

The deputy shall for each week with respect to which the claimant claims benefits or waiting period credit, make a "determination" which shall state whether or not the claim is valid under Section 7 and subsections (a), (b), (c), and (d) of Section 6 and the sum to be paid the claimant with respect to such week. In addition, for the first week with respect to which recoupment is sought pursuant to sub-

section (g) of this Section, the determination shall state the total amount of recoupment sought and the amount to be recouped with respect to such week. The deputy shall promptly notify the claimant and such employing unit as shall, within the time and in the manner prescribed by the Director, have alleged the claimant to be ineligible to receive benefits or waiting period credit for said week, of his "determination" and the reasons therefor.

The deputy may reconsider his finding or determination, as the case may be, at any time within thirteen weeks after the close of the benefit year, *provided* that no finding or determination shall be reconsidered at any time after appeal therefrom has been taken pursuant to the provisions of this section. Notice of such reconsidered determination or reconsidered finding shall be promptly given to the parties entitled to notice of the original determination or finding, as the case may be, in the same manner as is prescribed therefor and such redetermination or reconsidered finding shall be subject to appeal in the same manner and shall be given the same effect as is provided for an original determination or finding.

Benefits shall be denied or promptly paid in accordance with the finding and determination or the reconsidered finding or reconsidered determination, as the case may be, of the deputy except that in cases where: (1) the deputy, prior to the time he has made such finding and determination, or reconsidered finding, or reconsidered determination, has been notified by an employing unit, within the time and in the manner prescribed by the Director, that the claimant is ineligible to receive benefits or waiting period credits for the week in question, or (2) it shall appear to the deputy that the claimant had in his base period earned or been paid, as the case may be, remuneration which his employing unit contends was not wages for insured work, and such employing unit is not estopped, as hereinafter set forth, from so contending, then such benefits shall not be paid until the expiration of the period for appeal from such determination and finding, or reconsidered determination or reconsidered finding, as the case may be, and if an appeal is taken pursuant to the provisions of this section, such benefits shall not be paid until a decision by the Referee or the Board of Review orders such payment; **provided, however,** that when a deputy's determination which is based upon the provisions of Section 7, subsection (d), has been duly appealed to the Director as hereinafter provided, benefits with respect to the period prior to the final decision of the Director shall be paid only after such decision, and if review by the court is subsequently sought, then the decision, as to the payment of benefits, pending a ruling on the matters in controversy, shall be made by the court pursuant to Section 14.

If, in any "finding" made by a deputy pursuant to the provisions of this subsection, or in any decision rendered by a Referee, or the Board of Review, it is found that the claimant has been paid wages for insured work by any employing unit or units in his base period and such "finding" of the deputy, or decision of the Referee or the Board of Review becomes final, each such employing unit as shall have been a party to the deputy's "finding" as provided in this subsection, or to

the proceedings before the Referee, or the Board of Review, and shall have been given notice of such "finding" of the deputy, or proceedings before the Referee or the Board of Review, as the case may be, and an opportunity to be heard, shall be forever estopped to deny in any proceeding whatsoever that during such base period it was an employer as defined by this Act, that the wages paid by such employing unit to the claimant were wages for insured work, and that the wages paid by it for services rendered for it by any individual under circumstances substantially the same as those under which the claimant's services were performed, were wages for insured work.

If, pursuant to a deputy's finding and determination or reconsidered finding or reconsidered determination, benefits are payable and only a part thereof is in dispute, that part of such benefits not in dispute shall be promptly paid whether or not any appeal may be, or has been taken. If benefits in any amount are allowed by a referee, such benefits shall be promptly paid without regard to any further appeal. If benefits are paid pursuant to a finding or determination, or reconsidered finding, or reconsidered determination which is finally reversed or modified in subsequent proceedings with respect thereto, the benefit wages on which such benefits are based shall, for the purposes set forth in Section 18 (c) (2) of this Act, be treated in the same manner as if such final decision had been the finding and determination of the deputy.

Except as hereinafter provided, appeals from a deputy shall be taken to a Referee. Whenever a "determination" of a deputy involves a decision as to eligibility under Section 7 (d), appeals shall be taken to the Director or his representative designated for such purpose. Unless the claimant or any other party entitled to notice of the deputy's "finding" or "determination," as the case may be, or the Director, within seven (7) calendar days after the delivery of the deputy's notification of such "finding" or "determination," or within nine (9) calendar days after such notification was mailed to his last known address, files an appeal therefrom, such "finding" or "determination" shall be final, as to all parties given notice thereof.

(c) Appeals. Unless such appeal is withdrawn, a Referee, or the Director as the case may be, after affording the parties reasonable opportunity for fair hearing, shall affirm, modify, or set aside the deputy's "finding" or "determination", or both, as the case may be. The parties shall be duly notified of such decision, together with the reasons therefor. The decision of the Referee shall be deemed to be the final decision of the Board of Review, unless within ten days after the date of mailing of such decision, further appeal is initiated pursuant to subsection (e) of this Section.

(d) Referee. To hear and decide disputed claims, the Director shall appoint an adequate number of impartial Referees selected in accordance with the provisions of the State Civil Service Law. No person shall participate on behalf of the Director or the Board of Review in any case in which he is an interested party. The Director shall provide the Board of Review and such Referees with proper facilities and supplies, and with assistants and employees (selected

in accordance with the provisions of the State Civil Service Law) necessary for the execution of their functions.

(e) BOARD OF REVIEW. The Board of Review may on its own motion or upon appeal by any party to the determination or finding, affirm, modify, or set aside any decision of a Referee on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, and said Board of Review may take additional evidence in hearing such appeals. The Director may remove to the Board of Review or transfer to another referee the proceedings on any claim pending before a Referee. Any proceedings so removed to the Board of Review shall be heard in accordance with the requirements of subsection (c) of this section by the Board of Review. At any hearing before the Board of Review, in the absence or disqualification of any member thereof representing either the employee or employer class, the hearing shall be conducted by the member not identified with either of such classes. The Board of Review shall promptly notify the parties to the determination or finding or both, as the case may be, of its findings and decision.

(f) PROCEDURE. The manner in which disputed claims shall be presented and the conduct of hearings and appeals shall be in accordance with regulations prescribed by the Director for determining the rights of the parties. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

Whenever the giving of notice is required by this section, it may be given and be completed by mailing the same to the last known address of the person entitled thereto.

(g) RECOUPMENT. When a claimant has received any sum as benefits through his misstatement of his earnings for a week for which he claims benefits, or by reason of any act or omission which has resulted in his conviction for fraud, the Director is authorized to recoup from any benefits which subsequently become payable to the claimant, the amount he has so received or may sue to recover such amount by civil action in the name of the People of the State of Illinois.

If any person, other than by reason of such fraud or misstatement of earnings, has received any sum as benefits under this Act, to which, under a reconsidered determination or reconsidered finding pursuant to Section 9 (b) he has been found not to be entitled, he shall, in the discretion of the Director, be liable to have such sum deducted from any future benefits payable to him *provided, however*, that no such recoupment shall be had if such sum was received and retained by such person without fault on his part.

Any sums recouped under the provisions of this section shall be treated as repayments to the Director of sums wrongfully obtained by the claimant.

[Amended by Act approved June 30, 1943.]

§ 10. POWERS OF DIRECTOR OF BOARD OF REVIEW.] The Director, deputy, or other representative of the Director and any referee and the Board of Review, or any member thereof, shall have the power,

in the discharge of the duties imposed by this Act, to administer oaths and affirmations, certify to all official acts, and issue subpoenas to compel the attendance and testimony of witnesses, and the production of papers, books, accounts and documents deemed necessary as evidence in connection with a disputed claim or the administration of this Act.

§ 11. TESTIMONY—IMMUNITY.] No person shall be excused from testifying or from producing any papers, books, accounts, or documents in any investigation or inquiry or upon any hearing, when ordered to do so by the Director, Board of Review, or member thereof, or any deputy, referee or a representative of the Director, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a penalty or forfeiture. But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence, documentary or otherwise, before any such person or Board of Review: *Provided*, that such immunity shall extend only to a natural person, who, in obedience to a subpoena, and after claiming his privilege, shall, upon order, give testimony under oath or produce evidence, documentary or otherwise, under oath. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

§ 12. ATTENDANCE OF WITNESSES—PRODUCTION OF PAPERS—DEPOSITIONS.] All subpoenas issued under the terms of this Act may be served by any person of full age. The fees of witnesses for attendance and travel shall be the same as fees of witnesses before the circuit courts of this State, such fees to be paid when the witness is excused from further attendance. The payment of such fees shall be made in the same manner as are other expenses incurred in the administration of this Act. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.

Any person who shall be served with a subpoena to appear and testify, or to produce books, papers, accounts or documents, issued by the Director or by any deputy or other representative of the Director, or by any referee or the Board of Review, or member thereof, in the course of an inquiry, investigation or hearing conducted under any of the provisions of this Act, and who refuses or neglects to appear or to testify, or to produce books, papers, accounts and documents relevant to said inquiry, investigation, or hearing as commanded in such subpoena, shall be guilty of a misdemeanor.

Any circuit court of this State, or any judge thereof, upon application of the Director, or deputy, or other representative of the Director, or by any referee or the Board of Review, or any member thereof, may, in its or his discretion, compel the attendance of witnesses, the production of books, papers, accounts and documents, and the giving of testimony before such person or Board by an attachment for contempt or otherwise, in the same manner as production of evidence may be compelled before said court.

Such person or Board, or any party may in any investigation or hearing before such person or Board, cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in the courts of this State and to that end such person or Board may compel the attendance of witnesses and the production of papers, books, accounts and documents.

§ 13. COPIES OF PROCEEDINGS.] The Director shall provide a stenographer to take the testimony and record of proceedings at the hearings before the Director or Board of Review, before a deputy or other representative of the Director or before a referee. All expenses arising pursuant to this section shall be paid in the same manner as other expenses incurred pursuant to this Act.

§ 14. REVIEW BY THE COURTS.] Any decision of the board of review or of the Director in cases of decisions made pursuant to Section 9 (b), in the absence of an appeal therefrom as herein provided, shall become final twenty days after the date of mailing thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his administrative remedies as provided by this Act. The Director shall be deemed to be a party to any judicial action involving any such decision and shall be represented by the Attorney General.

Within twenty days after the mailing of the decision of the Board of Review or the decision of the Director rendered pursuant to Section 9 (b), to the party aggrieved thereby, such party may secure judicial review thereof by writ of certiorari of the Circuit Court of the county in which he resides, or in the county in which his principal place of business is located, or if he does not reside within the State of Illinois and has no place of business within this State, then in the Circuit Court of Cook county, but such writ shall not operate as a supersedeas unless the court so orders. Review by the Circuit and Supreme Courts in the manner hereinafter provided shall extend to questions of law and fact presented by the record.

Such proceedings before the courts shall be given precedence over all other civil cases except cases arising under the Workmen's Compensation Act of this State.

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 nor more than sixty days from the date of issuance thereof, and the praecipe shall contain the last known address of all parties in interest and their attorneys of record who are to be served by scire facias. Service upon such parties and their attorneys of record shall be by scire facias, and such service shall be made upon said Director and other parties in interest by mailing notices of the commencement of the proceedings and the return day of the writ to either of the offices of the said Director and to the last known place of residence of the 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 copies

of the writ of certiorari to the offices of the Director and the Board of Review, and a copy of the writ of scire facias to all parties in interest or their attorney or attorneys of record, and the clerk of said court shall make certificate that he has so sent such notice in pursuance of this section, which shall be evidence of service on the Director and the Board of Review and other parties in interest.

The Board of Review or the Director as the case may be shall certify the record of the proceedings to the Circuit Court and shall 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 thereof.

The court may confirm or set aside the decision of the Board of Review or of the Director, as the case may be. If the decision is set aside and the facts found in the proceedings before the Board of Review or the Director as the case may be, are sufficient, the court may enter such decision as is justified by law, or may remand the cause to the Board of Review or the Director as the case may be 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 by appeal to the Supreme Court in the same manner as in other civil cases.

It shall be the duty of the Clerk of any court rendering a decision affecting or affirming any award of the Board of Review or of the Director as the case may be, to promptly furnish the Director and the Board of Review with a copy of such decision, without charge, and the Board of Review or the Director as the case may be, shall enter an order in accordance with such decision. [Amended by Act approved June 30, 1941.]

§ 15. WAGES AND COMPENSATION OF ATTORNEYS.] No fee shall be charged any claimant in any proceeding under this Act by the Director or his representatives, or by the Referee or Board of Review, or by any court or the clerks thereof except as provided herein.

Any individual claiming benefits in any proceeding before the Director or his representative, or the Refereee or the Board of Review, or his or its representatives, or a court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive for such services more than an amount approved by the Board of Review, or in cases arising under section 7(d), by the Director.

Any person who shall exact or receive any remuneration or gratuity for any services rendered on behalf of such claimant except as allowed by this section and in an amount approved by the Board of Review or the Director, as the case may be, shall be guilty of a misdemeanor. Any person who shall solicit the business of appearing on behalf of such claimant or who shall make it a business to solicit employment for another in connection with any claim for benefits under this Act shall be guilty of a misdemeanor.

[Amended by Act approved June 30, 1943.]

§ 16. WAIVER AGREEMENT VOID.] Any agreement by an individual to waive, release or commute his rights under this Act shall be void.

§ 17. ASSIGNMENT OF BENEFITS—EXEMPTION.] Benefits due under this Act shall not be assigned, pledged, encumbered, released or commuted and shall be exempt from all claims of creditors and from levy, execution and attachment or other remedy for recovery or collection of a debt; such exemption may not be waived.

*§ 18. PAYMENT OF CONTRIBUTIONS.] (a) (1) On and after July 1, 1937, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this Act, with respect to wages payable for employment occurring during the six months' period beginning July 1, 1937, and the calendar years 1938, 1939 and 1940. For the year 1941 and for each calendar year thereafter, contributions shall accrue and become payable by each employer, at the rate hereinafter prescribed, upon the wages paid with respect to employment after December 31, 1940. Such contributions shall become due and shall be paid quarterly on or before the last day of the month next following the calendar quarter for which such contributions have accrued; except that any employer who is delinquent in filing a contribution report or in paying his contributions for any calendar quarter may, at the discretion of the Director, be required to report and to pay contributions on a calendar month basis. Such contributions shall not be deducted in whole or in part, from the wages of individuals in such employers' employ. If the Director shall find that the collection of any contributions will be jeopardized by delay he may declare the same to be immediately due and payable.

(2) In the payment of any contributions, interest or penalties, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(3) INTEREST. Any employer who shall fail to pay any contributions when required of him by the provisions of this Act and the Rules and Regulations of the Director, whether or not the amount thereof has been determined and assessed by the Director, shall pay to the Director, in addition to such contribution, interest thereon at the rate of one per cent (1%) per month and one-thirtieth (1/30) of one per cent (1%) for each day or fraction thereof computed from the day upon which said contribution became due.

(4) PENALTIES. Any employer who shall fail to file a report of wages paid to each of his workers for any period in the manner and within the time required by the provisions of this Act or the Rules and Regulations of the Director, or if the Director shall pursuant to such regulations extend the time for filing such report shall fail to file such report within such extended time, shall, in addition to any sum otherwise payable by him under the provisions of this Act, pay to the Director as a penalty a sum equal to 2 per cent of the contributions payable by such employer for such period, for each month or part thereof of such failure to file such report, *provided* that such penalties shall not exceed 10 per cent of the amount of such contributions.

* This section amended twice by the Sixty-third General Assembly.

If the Director shall deem any report of wages paid to each of the workers of any employer insufficient, he shall notify such employer to file a sufficient report. If such employer shall fail to file such sufficient report within 30 days after the mailing of such notice to him, he shall, in addition to any sum otherwise payable by him under the provisions of this Act, pay to the Director as a penalty a sum equal to 2 per cent of the contributions for such period, unpaid by him at the time of the mailing of such notice, for each month or part thereof of such failure to file such sufficient report, *provided* that such penalties shall not exceed 10 per cent of the amount of such contribution.

If any employer shall wilfully fail to pay any contribution or part thereof when required by the provisions of this Act and the Rules and Regulations of the Director, with intent to defraud the Director, then such employer shall in addition to such contribution or part thereof pay to the Director a penalty equal to 50 per cent of the amount of such contribution or part thereof, as the case may be.

(b) RATE OF CONTRIBUTION. Each employer shall pay contributions equal to the following percentages of wages paid or payable (as hereinafter set forth) with respect to employment;

(1) Three and six-tenths per centum with respect to wages payable for employment for the six months' period beginning July 1, 1937: *Provided*, that if the total of such contributions at such three and six-tenths per centum rate equals less than one and eight-tenths per centum of the total wages payable by any employer with respect to employment during the calendar year 1937, such employers shall pay, not later than January 31, 1938, an additional lump sum contribution with respect to employment for such six months' period beginning July 1, 1937, equal to the difference between one and eight-tenths per centum of such total wages for the calendar year 1937 and the total of his contributions at such three and six-tenths per centum rate for such six months' period beginning July 1, 1937, *and provided further* that in no event shall the contributions required from any employer with respect to employment during the six months' period beginning July 1,1937, exceed one and eight-tenths per centum of the wages payable by him with respect to employment during the calendar year 1937.

(2) Two and seven-tenths per centum with respect to wages payable for employment during the calendar years 1938, 1939, and 1940.

(3) Two and seven-tenths per centum with respect to wages paid during the calendar year 1941 and each calendar year thereafter, with respect to employment after December 31, 1940, except as may be otherwise provided in subsection (c) of this Section.

(c) FUTURE RATES BASED ON BENEFIT EXPERIENCE. Nothing in this Act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him either on his own behalf or on behalf of such individuals.

For the calendar year 1943 the contribution rate of each employer who has incurred liability for the payment of contributions under this Act within each of the calendar years 1938, 1939, 1940 and 1941; and for the calendar year 1944 and each calendar year thereafter, the con-

tribution rate of each employer who has incurred liability for the payment of contributions under this Act within each of the five calendar years immediately preceding the calendar year for which a rate is being determined, shall be determined as hereinafter provided. The contribution rate of all other employers shall be 2.7%.

(1) (A) Prior to July 1, 1941, when a worker is paid benefits for the second compensable week of unemployment, with respect to any benefit year his wages during his base period shall immediately become benefit wages.

(B) On and after July 1, 1941 (and except as is otherwise provided in this section), when a worker is paid benefits which, when added to benefits previously paid for the same benefit year, equal or exceed three times his weekly benefit amount for that benefit year, his wages during his base period shall immediately become benefit wages.

(C) If any benefit wages are increased by reason of the reconsideration by a deputy of his finding, the amount of such increase shall be treated as if it became benefit wages on the day on which such deputy made such reconsidered finding.

(2) An employer's benefit wages shall be the wages earned from or paid by him, as the case may be, which became benefit wages. For purposes of this subsection an employer's benefit wages with respect to any one worker shall include only the first $1,024 of wages in any base period prior to the base period 1941; and with respect to the base period 1941 and each base period thereafter, an employer's benefit wages with respect to any one worker shall include only the first $1,375 of wages in such base period.

(3) (A) In the determination of contribution rates for the calendar year 1943, the benefit wage ratio of each employer shall be a percentage equal to the total of his benefit wages for the three most recently completed calendar years, divided by his total wages for insured work for the same three years on which contributions were paid to the Director on or before January 31, 1943.

(B) In the determination of contribution rates for the calendar year 1944 and for each calendar year thereafter the benefit wage ratio of each employer shall be percentage equal to the total of his benefit wages for the 36 consecutive calendar month period ending June 30 of the calendar year immediately preceding the calendar year for which a rate is being determined divided by his total wages for insured work for the same period on which contributions were paid to the Director on or before July 31 immediately following such June 30.

(4) (A) In the determination of contribution rates for the calendar year 1943 the total benefits paid from this State's account in the unemployment trust fund during the three most recently completed calendar years shall be termed the loss experience. The loss experience less all repayments to this State's account in the unemployment trust fund during the three most recently completed calendar years divided by the total benefit wages of all employers for the same three completed calendar years, after adjustment of any fraction to the next higher multiple of one per cent, shall be termed the state experience factor.

(B) In the determination of contribution rates for the calendar year 1944 and for each calendar year thereafter the total benefits paid from this State's account in the unemployment trust fund during the 36 consecutive calendar month period ending June 30 of the calendar year immediately preceding the calendar year for which a rate is being determined shall be termed the loss experience. The loss experience less all repayments to this State's account in the unemployment trust fund during the same 36 consecutive calendar month period divided by the total benefit wages of all employers for the same period, after adjustment of any fraction to the next higher multiple of one per cent, shall be termed the state experience factor.

(C) The state experience factor shall be determined for each calendar year by the Director. In the determination of the State experience factor for the calendar year 1943 any change in the benefit wages of any employer after December 31, 1942, shall not affect the state experience factor as determined by the Director. In the determination of the state experience factor for the calendar year 1944 and for each calendar year thereafter any change in the benefit wages of any employer after June 30 of the calendar year immediately preceding the calendar year for which the state experience factor is being determined shall not affect the state experience factor as determined by the Director.

(5) (A) The contribution rate for each employer shall be the percentage at the head of the lowest numbered column in the following table, in which on the same line as the current state experience factor, there appears a percentage equal to or in excess of such employer's benefit wage ratio. If no percentage equal to or in excess of such employer's benefit wage ratio appears on said line, then such employer's contribution rate shall be three and six-tenths (3.6) per centum.

TABLE

State Experience Factor	Col. 1 .5%	Col. 2 1.0%	Col. 3 1.5%	Col. 4 2.0%	Col. 5 2.5%	Col. 6 3.0%
1%	50%	100%	150%	200%	250%	300%
2	25	50	75	100	125	150
3	17	33	50	66	83	100
4	13	25	38	50	63	75
5	10	20	30	40	50	60
6	8	17	25	34	42	50
7	7	14	21	29	36	43
8	6	13	19	25	31	38
9	6	11	16	22	28	33
10	5	10	15	20	25	30
11	5	9	14	18	23	27
12	4	8	13	17	21	25
13	4	8	12	15	19	23
14	4	7	11	14	18	21
15	3	7	10	13	17	20
16	3	6	9	12	16	19
17	3	6	9	12	15	18

18	3	6	8	11	14	17
19	3	5	8	11	13	16
20	3	5	8	10	13	15
21	2	5	7	10	12	14
22	2	5	7	9	11	14
23	2	4	7	9	11	13
24	2	4	6	8	10	12
25	2	4	6	8	10	12
26	2	4	6	8	10	12
27	2	4	6	7	9	11
28	2	4	5	7	9	11
29	2	3	5	7	9	10
30	2	3	5	7	8	10
31	2	3	5	6	8	10
32	2	3	5	6	8	9
33	2	3	5	6	8	9
34	1	3	4	6	7	9
35	1	3	4	6	7	9

The contribution rate of each employer for whom no wages become benefit wages during the period under consideration and who paid no contributions upon wages for insured work during such period prior to the dates specified in Section 18 (c) (3) shall be 2.7%. The contribution rate of each employer for whom wages became benefit wages during the period under consideration but who paid no contributions on wages for insured work during such period prior to the dates specified in Section 18 (c) (3) shall be 3.6%.

(B) Any provision of this section to the contrary notwithstanding:

Each employer who has paid wages for insured work in the calendar year 1942 which exceeded by 150 per cent or more the wages for insured work payable by such employer in the calendar year 1940, shall pay contributions on wages paid for insured work in the last six months of the calendar year 1943 at the rate determined by the Director pursuant to the other provisions of this section for the calendar year 1943 if such rate is 2.7 per cent or more; if such rate is less than 2.7 per cent, then such employer shall pay contributions on wages paid by him for insured work in the last six months of the calendar year 1943 up to and including $50,000 at the rate determined by the Director for the calendar year 1943 pursuant to the other provisions of this section and at the rate of 2.7 per cent on all wages for insured work in excess of $50,000 paid in such period.

Each employer who has paid wages for insured work in the calendar year 1942 which exceeded by more than 100 per cent, but less than 150 per cent, the wages for insured work payable by such employer for the calendar year 1940 shall pay contributions on wages paid for insured work in the last six months of the calendar year 1943 at the rate determined by the Director pursuant to the other provisions of this section for the calendar year 1943 if such rate is 2 per cent or more; if such rate is less than 2 per cent, then such employer shall pay contributions on wages paid by him for insured work in the last six

months of the calendar year 1943 up to and including $50,000 at the rate determined by the Director for the calendar year 1943 pursuant to the other provisions of this section and at the rate of 2 per cent on all wages for insured work, in excess of $50,000 paid in such period.

Each employer who has paid wages for insured work in the calendar year 1943 which exceeded by 150 per cent or more the wages for insured work payable by such employer in the calendar year 1940 shall pay contributions on wages paid for insured work in the calendar year 1944 at the rate determined by the Director pursuant to the other provisions of this section for the calendar year 1944 if such rate is 2.7 per cent or more; if such rate is less than 2.7 per cent, then such employer shall pay contributions on wages paid by him for insured work in the calendar year 1944 up to and including $100,000 at the rate determined by the Director for the calendar year 1944 pursuant to the other provisions of this section and at the rate of 2.7 per cent on all wages for insured work in excess of $100,000 paid in such calendar year.

Each employer who has paid wages for insured work in the calendar year 1943 which exceeded by more than 100 per cent, but less than 150 per cent, the wages for insured work payable by such employer in the calendar year 1940, shall pay contributions on wages paid for insured work in the calendar year 1944 at the rate determined by the Director pursuant to the other provisions of this section for the calendar year 1944 if such rate is 2 per cent or more; if such rate is less than 2 per cent then such employer shall pay contributions on wages paid by him for insured work in the calendar year 1944 up to and including $100,000 at the rate determined by the Director for the calendar year 1944 pursuant to the other provisions of this section and at the rate of 2 per cent on all wages for insured work in excess of $100,000 paid in such calendar year.

Each employer who has paid wages for insured work in the calendar year 1944 which exceeded by 150 per cent or more the wages for insured work payable by such employer in the calendar year 1940 shall pay contributions on wages paid for insured work in the calendar year 1945 at the rate determined by the Director pursuant to the other provisions of this section for the calendar year 1945 if such rate is 2.7 per cent or more; if such rate is less than 2.7 per cent, then such employer shall pay contributions on wages paid by him for insured work in the calendar year 1945 up to and including $100,000 at the rate determined by the Director for the calendar year 1945 pursuant to the other provisions of this section and at the rate of 2.7 per cent on all wages for insured work in excess of $100,000 paid in such calendar year.

Each employer who has paid wages for insured work in the calendar year 1944 which exceeded by more than 100 per cent, but less than 150 per cent, the wages for insured work payable by such employer in the calendar year 1940, shall pay contributions on wages paid for insured work in the calendar year 1945 at the rate determined by the Director pursuant to the other provisions of this section for the calendar year 1944 if such rate is 2 per cent or more; if such rate is less than 2 per cent, then such employer shall pay contributions on wages

paid by him for insured work in the calendar year 1945 up to and including $100,000 at the rate determined by the Director for the calendar year 1945 pursuant to the other provisions of this section and at the rate of 2 per cent on all wages for insured work in excess of $100,000 paid in such calendar year.

(C) For the purposes of this subsection: Benefits shall be deemed to have been paid when requisition has been made therefor by the Director upon the State Treasurer.

The term "basic amount" means the amount standing to the credit of this State's account in the unemployment trust fund as of the close of the calendar year 1942.

The term "minimum normal amount" means 60% of the basic amount.

The term "maximum normal amount" means 140% of the basic amount.

The term "current amount" shall be the amount standing to the credit of this State's account in the unemployment trust fund as of June 30, 1943 and as of June 30 of each succeeding calendar year thereafter.

For every 4% (or fraction thereof) of the basic amount by which the current amount falls below the minimum normal amount, the calculated state experience factor for the succeeding calendar year shall be increased 1% absolute.

For every 4% (or fraction thereof) of the basic amount by which the current amount exceeds the maximum normal amount, the calculated state experience factor for the succeeding year shall be reduced 1% absolute.

(6) (A) In the determination of contribution rates for the calendar year 1943 and for each calendar year thereafter, two or more employing units which are parties to or the subject of a merger, consolidation, or other form of reorganization effecting a change in legal identity or form shall be considered and treated as a single employing unit if the Director finds that (a) immediately after such change the employing enterprises of the predecessor employing unit or units are continued solely through a single employing unit as successor thereto, and (b) immediately after such change such successor is owned or controlled, directly or indirectly, by legally enforceable means or otherwise, by the same interests as the predecessor employing unit or units immediately preceding the date of reorganization.

Whenever two or more such reorganizations occur in succession, all the employing units which are parties to or the subject of the last reorganization, if any, which took place prior to January 1, 1943, and all the employing units which are parties to or the subject of any such successive reorganization which occurred on or after January 1, 1943, shall be considered and treated as a single employing unit for the purposes of determining contribution rates, if the Director finds that both conditions (a) and (b) above exist with respect to each reorganization in the series of successive reorganizations.

(B) For the calendar year in which a reorganization provided for in the preceding paragraph occurs, the contribution rate of any

such successor employing unit for whom a rate of contribution has previously been determined for that calendar year shall continue to be that employer's contribution rate. The rate of any such successor employing unit for whom a rate of contribution has not previously been determined for that calendar year shall be determined in the following manner:

(i) If there is only one predecessor employer involved in such reorganization, that predecessor employer's rate of contribution for the year in which such reorganization occurs shall be the rate of the successor employing unit for the calendar year in which such reorganization occurred;

(ii) If there are two or more predecessor employing units involved in such reorganization and all the predecessor employers have the same contribution rate for the year in which such reorganization occurs, that contribution rate shall be the rate of the successor employing unit for the calendar year in which such reorganization occurred;

(iii) If there are two or more predecessor employing units involved in such reorganization having different contribution rates for the year in which such reorganization occurs, a rate of contribution for the successor employing unit for the calendar year in which such reorganization occurred, shall be determined as follows: If such reorganization occurred prior to January 1, 1944, then for the purpose of determining such rate for the calendar year 1943 the benefit wage ratio of the successor employer shall be a percentage equal to the total of the benefit wages of all the parties to the reorganization for the three immediately preceding calendar years divided by the total wages for insured work for the same period of all the employing units which were parties to the reorganization on which contributions were paid to the Director on or before January 31, 1943. If such reorganization occurred on or after January 1, 1944, then for the purpose of determining such rate for the calendar year in which such reorganization occurred, the benefit wage ratio of the successor employer shall be a percentage equal to the total of the benefit wages of all parties to such reorganization for the 36 consecutive calendar month period ending June 30 of the calendar year immediately preceding the date of such reorganization, divided by the total wages for insured work for the same period, on which contributions were paid by all the employing units which were parties to such reorganization to the Director on or before July 31 immediately following the end of such period. In computing a rate for an employer under the provisions of this paragraph the State Experience Factor shall be the one applicable in the determination of contribution rates for the year in which such reorganization occurred.

(7) (A) The Director shall periodically furnish each employer with a statement of the wages of his workers or former workers which became his benefit wages together with the names of such workers or former workers, and any such statement in absence of an application for revision thereof within 30 days from the date of mailing of such statement to his last known address shall be conclusive and final upon the employer for all purposes and in all proceedings whatsoever. Such

application for revision shall be in the form and manner prescribed by regulation of the Director. If the Director shall deem any application for revision insufficient, he shall rule such insufficient application stricken and shall serve notice of such ruling and the basis therefor upon the employer. Such ruling shall be final and conclusive upon the employer unless he shall file a sufficient application for revision within ten days from the date of service of notice of such ruling. Upon receipt of a sufficient application for revision of such statement within the time allowed, the Director shall order such application allowed in whole or in part, or shall order that such application for revision be denied and shall serve notice upon the employer of such order. Such order of the Director shall be final and conclusive at the expiration of ten days from the date of service of such notice unless the employer shall have filed with the Director a written protest and a petition for hearing, specifying his objections thereto. Upon receipt of such petition within the ten days allowed, the Director shall fix the time and place for a hearing and shall notify the employer thereof. At any hearing held as herein provided, the order of the Director shall be prima facie correct and the burden shall be upon the protesting employer to prove that it is incorrect. All of the provisions of Section 25 of this Act applicable to hearings conducted pursuant to such Section and not inconsistent with the provisions of this subsection shall be applicable to hearings conducted pursuant to this subsection. No employer shall have the right to object to the benefit wages with respect to any worker as shown on such statement unless he shall first show that such benefit wages arose as a result of benefits paid to such worker in accordance with a finding, reconsidered finding, determination or reconsidered determination pursuant to Section 9 of this Act to which such employer was a party entitled to notice thereof as provided by Section 9 of this Act, and shall further show that he was not notified of such finding, reconsidered finding, determination or reconsidered determination in accordance with the requirements of Section 9 of this Act. *Provided* that nothing herein contained shall abridge the right of any employer at such hearing to object to such statement of benefit wages on the ground that it is incorrect by reason of a clerical error made by the Director or any of his employees. The employer shall be promptly notified, by mail, of the Director's decision. Such decision shall be final and conclusive unless review is had within the time and in the manner provided by Section 25 (a) (2) of this Act.

(B) Each rate determination for the calendar year 1943 made as in this Section provided shall be based upon the benefit wages of each employer for the three preceding calendar years as they appeared upon the records of the Director on February 25, 1943.

(C) The Director shall promptly notify each employer of his rate of contributions for each calendar year as determined pursuant to this Section, by mailing notice thereof to his last known address. Such rate determination shall be final and conclusive upon the employer for all purposes and in all proceedings whatsoever, unless within 15 days after mailing of notice thereof, the employer files with the Director an application for review of such rate determination, setting forth his

reasons in support thereof. Such application for review shall be in the form and manner prescribed by regulation of the Director. If the Director shall deem any application for review insufficient, he shall rule such insufficient application stricken and shall serve notice of such ruling and the basis therefor upon the employer. Such ruling shall be final and conclusive upon the employer unless he shall file a sufficient application for review within ten days from the date of service of notice of such ruling. Upon receipt of a sufficient application for review within the time allowed, the Director shall order such application for review allowed in whole or in part, or shall order that such application for review be denied, and shall serve notice upon the employer of such order. Such order of the Director shall be final and conclusive at the expiration of ten days from the date of service of such notice unless the employer shall have filed with the Director a written protest and a petition for hearing, specifying his objections thereto. Upon receipt of such petition within the ten days allowed, the Director shall fix the time and place for a hearing and shall notify the employer thereof. At any hearing held as herein provided, the order of the Director shall be prima facie correct and the burden shall be upon the protesting employer to prove that it is incorrect. All of the provisions of Section 25 of this Act applicable to hearings conducted pursuant to such Section and not inconsistent with the provisions of this subsection shall be applicable to hearings conducted pursuant to this subsection. In any such proceeding the employer shall be barred from questioning the amount of the benefit wages as shown on any statement of benefit wages which forms the basis for the computation of such rate, unless such employer shall prove that he was not, as heretofore provided, furnished with the statement of benefit wages containing the benefit wages which he maintains are erroneous. In such event, the employer shall have the same rights to revision of such statement of benefit wages in such proceedings as provided in this Section with reference to revision of statements of benefit wages. Upon the completion of such hearing the employer shall be promptly notified by the Director by mail of his decision and such decision shall be final and conclusive for all purposes and in all proceedings whatsoever unless review is had within the time and in the manner provided by Section 25 (a) (2) of this Act.

(D) Whenever service of notice is required by this subsection such notice may be given and be complete by depositing the same with the United States Mail addressed to the employer concerned at his last known address. If represented by counsel in the proceedings before the Director then service of notice may be made upon such employer by mailing same to such counsel.

(d) STUDY OF EXPERIENCE RATING. The Board of Unemployment Compensation and Free Employment Office Advisors created by Section 6 of "The Civil Administrative Code of Illinois," approved March 7, 1917, as amended, is hereby authorized and directed to study and examine the present provisions of this Act providing for experience rating, in order to determine whether the rates of contributions for the calendar years 1943 and thereafter will operate to replenish

the amount of benefits paid and to determine the effect of experience rating upon labor and industry in this State.

The Board shall submit its findings and recommendations based thereon to the sixty-third General Assembly, including, if it is found that the rates for 1943 and thereafter will not provide for replenishment of benefits paid out, a recommendation of such adjustment of rates as will accomplish this purpose. The Board may employ such experts and assistants as may be necessary to carry out the provisions of this subsection. All expenses incurred in the making of this study, including the preparation and submission of its findings and recommendations, shall be paid in the same manner as is provided for the payment of costs of administration of this Act.

[Amended by Act approved June 30, 1943.]

§ 18. PAYMENT OF CONTRIBUTIONS.] (a) (1) On and after July 1, 1937, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this Act, with respect to wages payable for employment occurring during the six months' period beginning July 1, 1937, and the calendar years 1938, 1939 and 1940. For the year 1941 and for each calendar year thereafter, contributions shall accrue and become payable by each employer, at the rate hereinafter prescribed, upon the wages paid with respect to employment after December 31, 1940. Such contributions shall become due and shall be paid quarterly on or before the last day of the month next following the calendar quarter for which such contributions have accrued; except that any employer who is delinquent in filing a contribution report or in paying his contributions for any calendar quarter may, at the discretion of the Director, be required to report and to pay contributions on a calendar month basis. Such contributions shall not be deducted in whole or in part, from the wages of individuals in such employers' employ. If the Director shall find that the collection of any contributions will be jeopardized by delay he may declare the same to be immediately due and payable.

(2) In the payment of any contributions, interest or penalties, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent .

(3) INTEREST. Any employer who shall fail to pay any contributions when required of him by the provisions of this Act and the Rules and Regulations of the Director, whether or not the amount thereof has been determined and assessed by the Director, shall pay to the Director, in addition to such contributions, interest thereon at the rate of one percent (1%) per month and one-thirtieth (1/30) of one percent (1%) for each day or fraction thereof computed from the day upon which said contribution became due.

(4) PENALTIES. Any employer who shall fail to file a report of wages paid to each of his workers for any period in the manner and within the time required by the provisions of this Act or the Rules and Regulations of the Director, or if the Director shall pursuant to such regulations extend the time for filing such report shall fail to file such report within such extended time, shall, in addition to any sum otherwise payable by him under the provisions of this Act, pay

to the Director as a penalty a sum equal to 2 per cent of the contributions payable by such employer for such period, for each month or part thereof of such failure to file such report, *provided* that such penalties shall not exceed 10 per cent of the amount of such contributions.

If the Director shall deem any report of wages paid to each of the workers of any employer insufficient, he shall notify such employer to file a sufficient report. If such employer shall fail to file such sufficient report within 30 days after the mailing of such notice to him, he shall, in addition to any sum otherwise payable by him under the provisions of this Act, pay to the Director as a penalty a sum equal to 2 per cent of the contributions for such period, unpaid by him at the time of the mailing of such notice, for each month or part thereof of such failure to file such sufficient report, *provided* that such penalties shall not exceed 10 per cent of the amount of such contribution.

If any employer shall wilfully fail to pay any contribution or part thereof when required by the provisions of this Act and the Rules and Regulations of the Director, with intent to defraud the Director, then such employer shall in addition to such contribution or part thereof pay to the Director a penalty equal to 50 per cent of the amount of such contribution or part thereof, as the case may be.

(b) RATE OF CONTRIBUTION. Each employer shall pay contributions equal to the following percentages of wages paid or payable (as hereinafter set forth) with respect to employment;

(1) Three and six-tenths per centum with respect to wages payable for employment for the six months' period beginning July 1, 1937: *Provided,* that if the total of such contributions at such three and six-tenths per centum rate equals less than one and eight-tenths per centum of the total wages payable by any employer with respect to employment during the calendar year 1937, such employers shall pay, not later than January 31, 1938, an additional lump sum contribution with respect to employment for such six months' period beginning July 1, 1937, equal to the difference between one and eight-tenths per centum of such total wages for the calendar year 1937 and the total of his contributions at such three and six-tenths per centum rate for such six months' period beginning July 1, 1937, *and provided further* that in no event shall the contributions required from any employer with respect to employment during the six months' period beginning July 1, 1937, exceed one and eight-tenths per centum of the wages payable by him with respect to employment during the calendar year 1937.

(2) Two and seven-tenths per centum with respect to wages payable for employment during the calendar years 1938, 1939, and 1940.

(3) Two and seven-tenths per centum with respect to wages paid during the calendar year 1941 and each calendar year thereafter, with respect to employment after December 31, 1940, except as may be otherwise provided in subsection (c) of this Section.

(c) FUTURE RATES BASED ON BENEFIT EXPERIENCE.] Nothing in this Act shall be construed to grant any employer or individuals in

his service prior claims or rights to the amounts paid by him either on his own behalf or on behalf of such individuals.

For the calendar year 1943 the contribution rate of each employer who has incurred liability for the payment of contributions under this Act within each of the calendar years 1938, 1939, 1940 and 1941; and for the calendar year 1944 and each calendar year thereafter, the contribution rate of each employer who has incurred liability for the payment of contributions under this Act within each of the five calendar years immediately preceding the calendar year for which a rate is being determined, shall be determined as hereinafter provided. The contribution rate of all other employers shall be 2.7%.

(1) (A) Prior to July 1, 1941, when a worker is paid benefits for the second compensable week of unemployment, with respect to any benefit year his wages during his base period shall immediately become benefit wages.

(B) On and after July 1, 1941 (and except as is otherwise provided in this section), when a worker is paid benefits which, when added to benefits previously paid for the same benefit year, equal or exceed three times his weekly benefit amount for that benefit year, his wages during his base period shall immediately become benefit wages.

(C) If any benefit wages are increased by reason of the reconsideration by a deputy of his findings, the amount of such increase shall be treated as if it became benefit wages on the day on which such deputy made such reconsidered finding.

(2) An employer's benefit wages shall be the wages earned from or paid by him, as the case may be, which became benefit wages. For purposes of this subsection an employer's benefit wages with respect to any one worker shall include only the first $1,024 of wages in any base period prior to the base period 1941; and with respect to the base period 1941 and each base period thereafter, an employer's benefit wages with respect to any one worker shall include only the first $1,375 of wages in such base period.

(3) (A) In the determination of contribution rates for the calendar year 1943, the benefit wage ratio of each employer shall be a percentage equal to the total of his benefit wages for the three most recently completed calendar years, divided by his total wages for insured work for the same three years on which contributions were paid to the Director on or before January 31, 1943.

(B) In the determination of contribution rates for the calendar year 1944 and for each calendar year thereafter the benefit wage ratio of each employer shall be a percentage equal to the total of his benefit wages for the 36 consecutive calendar month period ending June 30 of the calendar year immediately preceding the calendar year for which a rate is being determined divided by his total wages for insured work for the same period on which contributions were paid to the Director on or before July 31 immediately following such June 30.

(4) (A) In the determination of contribution rates for the calendar year 1943 the total benefits paid from this State's account in the unemployment trust fund during the three most recently completed calendar years shall be termed the loss experience. The loss experience

less all repayments to this State's account in the unemployment trust fund during the three most recently completed calendar years divided by the total benefit wages of all employers for the same three completed calendar years, after adjustment of any fraction to the next higher multiple of one per cent, shall be termed the state experience factor.

(B) In the determination of contribution rates for the calendar year 1944 and for each calendar year thereafter the total benefits paid from this State's account in the unemployment trust fund during the 36 consecutive calendar month period ending June 30 of the calendar year immediately preceding the calendar year for which a rate is being determined shall be termed the loss experience. The loss experience less all repayments to this State's account in the unemployment trust fund during the same 36 consecutive calendar month period divided by the total benefit wages of all employers for the same period, after adjustment of any fraction to the next higher multiple of one per cent, shall be termed the state experience factor.

(C) The state experience factor shall be determined for each calendar year by the Director. In the determination of the state experience factor for the calendar year 1943 any change in the benefit wages of any employer after December 31, 1942, shall not affect the state experience factor as determined by the Director. In the determination of the state experience factor for the calendar year 1944 and for each calendar year thereafter any change in the benefit wages of any employer after June 30 of the calendar year immediately preceding the calendar year for which the state experience factor is being determined shall not affect the state experience factor as determined by the Director.

(5) The contribution rate for each employer shall be the percentage at the head of the lowest numbered column in the following table, in which on the same line as the current state experience factor, there appears a percentage equal to or in excess of such employer's benefit wage ratio. If no percentage equal to or in excess of such employer's benefit wage ratio appears on said line, then such employer's contribution rate shall be three and six-tenths (3.6) per centum.

TABLE

State Experience Factor	Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6
	.5%	1.0%	1.5%	2.0%	2.5%	3.0%
1%	50%	100%	150%	200%	250%	300%
2	25	50	75	100	125	150
3	17	33	50	66	83	100
4	13	25	38	50	63	75
5	10	20	30	40	50	60
6	8	17	25	34	42	50
7	7	14	21	29	36	43
8	6	13	19	25	31	38
9	6	11	16	22	28	33

10	5	10	15	20	25	30
11	5	9	14	18	23	27
12	4	8	13	17	21	25
13	4	8	12	15	19	23
14	4	7	11	14	18	21
15	3	7	10	13	17	20
16	3	6	9	12	16	19
17	3	6	9	12	15	18
18	3	6	8	11	14	17
19	3	5	8	11	13	16
20	3	5	8	10	13	15
21	2	5	7	10	12	14
22	2	5	7	9	11	14
23	2	4	7	9	11	13
24	2	4	6	8	10	12
25	2	4	6	8	10	12
26	2	4	6	8	10	12
27	2	4	6	7	9	11
28	2	4	5	7	9	11
29	2	3	5	7	9	10
30	2	3	5	7	8	10
31	2	3	5	6	8	10
32	2	3	5	6	8	9
33	2	3	5	6	8	9
34	1	3	4	6	7	9
35	1	3	4	6	7	9

The contribution rate of each employer for whom no wages became benefit wages during the period under consideration and who paid no contributions upon wages for insured work during such period prior to the dates specified in Section 18 (c) (3) shall be 2.7%. The contribution rate of each employer for whom wages became benefit wages during the period under consideration but who paid no contributions on wages for insured work during such period prior to the dates specified in Section 18 (c) (3) shall be 3.6%.

For the purposes of this subsection: Benefits shall be deemed to have been paid when requisition has been made therefor by the Director upon the State Treasurer.

The term "basic amount" means the amount standing to the Credit of this State's account in the unemployment trust fund as of the close of the calendar year 1942.

The term "minimum normal amount" means 60% of the basic amount.

The term "maximum normal amount" means 140% of the basic amount.

The term "current amount" shall be the amount standing to the credit of this State's account in the unemployment trust fund as of June 30, 1943 and as of June 30 of each succeeding calendar year thereafter.

For every 4% (or fraction thereof) of the basic amount by which the current amount falls below the minimum normal amount, the

calculated state experience factor for the succeeding calendar year shall be increased 1% absolute.

For every 4% (or fraction thereof) of the basic amount by which the current amount exceeds the maximum normal amount, the calculated state experience factor for the succeeding year shall be reduced 1% absolute.

(6) (A) In the determination of contribution rates for the calendar year 1943 and for each calendar year thereafter, two or more employing units which are parties to or the subject of a merger, consolidation, or other form of reorganization effecting a change in legal identity or form shall be considered and treated as a single employing unit if the Director finds that (a) immediately after such change the employing enterprises of the predecessor employing unit or units are continued solely through a single employing unit as successor thereto, and (b) immediately after such change such successor is owned or controlled, directly or indirectly, by legally enforceable means or otherwise, by the same interests as the predecessor employing unit or units immediately preceding the date of reorganization.

Whenever two or more such reorganizations occur in succession, all the employing units which are parties to or subject of the last reorganization, if any, which took place prior to January 1, 1943, and all the employing units which are parties to or the subject of any such successive reorganization which occurred on or after January 1, 1943, shall be considered and treated as a single employing unit for the purposes of determining contribution rates, if the Director finds that both conditions (a) and (b) above exist with respect to each reorganization in the series of successive reorganizations.

(B) For the calendar year in which a reorganization provided for in the preceding paragraph occurs, the contribution rate of any such successor employing unit for whom a rate of contribution has previously been determined for that calendar year shall continue to be that employer's contribution rate. The rate of any such successor employing unit for whom a rate of contribution has not previously been determined for that calendar year shall be determined in the following manner:

(i) If there is only one predecessor employer involved in such reorganization, that predecessor employer's rate of contribution for the year in which such reorganization occurs shall be the rate of the successor employing unit for the calendar year in which such reorganization occurred;

(ii) If there are two or more predecessor employing units involved in such reorganization and all the predecessor employers have the same contribution rate for the year in which such reorganization occurs, that contribution rate shall be the rate of the successor employing unit for the calendar year in which such reorganization occurred;

(iii) If there are two or more predecessor employing units involved in such reorganization having different contribution rates for the year in which such reorganization occurs, a rate of contribution for the successor employing unit for the calendar year in which such reorganization occurred, shall be determined as follows: If such re-

organization occurred prior to January 1, 1944, then for the purpose of determining such rate for the calendar year 1943 the benefit wage ratio of the successor employer shall be a percentage equal to the total of the benefit wages of all the parties to the reorganization for the three immediately preceding calendar years divided by the total wages for insured work for the same period of all the employing units which were parties to the reorganization on which contributions were paid to the Director on or before January 31, 1943. If such reorganization occurred on or after January 1, 1944, then for the purpose of determining such rate for the calendar year in which such reorganization occurred, the benefit wage ratio of the successor employer shall be a percentage equal to the total of the benefit wages of all parties to such reorganization for the 36 consecutive calendar month period ending June 30 of the calendar year immediately preceding the date of such reorganization, divided by the total wages for insured work for the same period, on which contributions were paid by all the employing units which were parties to such reorganization to the Director on or before July 31 immediately following the end of such period. In computing a rate for an employer under the provisions of this paragraph the State Experience Factor shall be the one applicable in the determination of contribution rates for the year in which such reorganization occurred.

(7) (A) The Director shall periodically furnish each employer with a statement of the wages of his workers or former workers which became his benefit wages together with the names of such workers or former workers, and any such statement in absence of an application for revision thereof within 30 days from the date of mailing of such statement to his last known address shall be conclusive and final upon the employer for all purposes and in all proceedings whatsoever. Such application for revision shall be in the form and manner prescribed by regulation of the Director. If the Director shall deem any application for revision insufficient, he shall rule such insufficient application stricken and shall serve notice of such ruling and the basis therefor upon the employer. Such ruling shall be final and conclusive upon the employer unless he shall file a sufficient application for revision within ten days from the date of service of notice of such ruling. Upon receipt of a sufficient application for revision of such statement within the time allowed, the Director shall order such application allowed in whole or in part, or shall order that such application for revision be denied and shall serve notice upon the employer of such order. Such order of the Director shall be final and conclusive at the expiration of ten days from the date of service of such notice unless the employer shall have filed with the Director a written protest and a petition for hearing, specifying his objections thereto. Upon receipt of such petition within the ten days allowed, the Director shall fix the time and place for a hearing and shall notify the employer thereof. At any hearing held as herein provided, the order of the Director shall be prima facie correct and the burden shall be upon the protesting employer to prove that it is incorrect. All of the provisions of Section 25 of this Act applicable to hearings conducted pursuant to such Section and not inconsistent with the provisions of this subsection shall be

applicable to hearings conducted pursuant to this subsection. No employer shall have the right to object to the benefit wages with respect to any worker as shown on such statement unless he shall first show that such benefit wages arose as a result of benefits paid to such worker in accordance with a finding, reconsidered finding, determination or reconsidered determination pursuant to Section 9 of this Act to which such employer was a party entitled to notice thereof as provided by Section 9 of this Act, and shall further show that he was not notified of such finding, reconsidered finding, determination or reconsidered determination in accordance with the requirements of Section 9 of this Act. *Provided* that nothing herein contained shall abridge the right of any employer at such hearing to object to such statement of benefit wages on the ground that it is incorrect by reason of a clerical error made by the Director or any of his employees. The employer shall be promptly notified, by mail, of the Director's decision. Such decision shall be final and conclusive unless review is had within the time and in the manner provided by Section 25 (a) (2) of this Act.

(B) Each rate determination for the calendar year 1943 made as in this Section provided shall be based upon the benefit wages of each employer for the three preceding calendar years as they appeared upon the records of the Director on February 25, 1943.

(C) The Director shall promptly notify each employer of his rate of contributions for each calendar year as determined pursuant to this Section, by mailing notice thereof to his last known address. Such rate determination shall be final and conclusive upon the employer for all purposes and in all proceedings whatsoever, unless within 15 days after mailing of notice thereof, the employer files with the Director an application for review of such rate determination, setting forth his reasons in support thereof. Such application for review shall be in the form and manner prescribed by regulation of the Director. If the Director shall deem any application for review insufficient, he shall rule such insufficient application stricken and shall serve notice of such ruling and the basis therefor upon the employer. Such ruling shall be final and conclusive upon the employer unless he shall file a sufficient application for review within ten days from the date of service of notice of such ruling. Upon receipt of a sufficient application for review within the time allowed, the Director shall order such application for review allowed in whole or in part, or shall order that such application for review be denied, and shall serve notice upon the employer of such order. Such order of the Director shall be final and conclusive at the expiration of ten days from the date of service of such notice unless the employer shall have filed with the Director a written protest and a petition for hearing, specifying his objections thereto. Upon receipt of such petition within the ten days allowed, the Director shall fix the time and place for a hearing and shall notify the employer thereof. At any hearing held as herein provided, the order of the Director shall be prima facie correct and the burden shall be upon the protesting employer to prove that it is incorrect. All of the provisions of Section 25 of this Act applicable to hearings conducted pursuant to such Section and not inconsistent with the provisions of this subsection shall be applicable to hearings conducted

pursuant to this subsection. In any such proceeding the employer shall be barred from questioning the amount of the benefit wages as shown on any statement of benefit wages which forms the basis for the computation of such rate, unless such employer shall prove that he was not, as heretofore provided, furnished with the statement of benefit wages containing the benefit wages which he maintains are erroneous. In such event, the employer shall have the same rights to revision of such statement of benefit wages in such proceedings as provided in this Section with reference to revision of statements of benefit wages. Upon the completion of such hearing the employer shall be promptly notified by the Director by mail of his decision and such decision shall be final and conclusive for all purposes and in all proceedings whatsoever unless review is had within the time and in the manner provided by Section 25(a) (2) of this Act.

(D) Whenever service of notice is required by this subsection such notice may be given and be complete by depositing the same with the United States Mail addressed to the employer concerned at his last known address. If represented by counsel in the proceedings before the Director then service of notice may be made upon such employer by mailing same to such counsel.

(d) STUDY OF EXPERIENCE RATING. The Board of Unemployment Compensation and Free Employment Office Advisors created by Section 6 of "The Civil Administrative Code of Illinois," approved March 7, 1917, as amended, is hereby authorized and directed to study and examine the present provisions of this Act providing for experience rating, in order to determine whether the rates of contributions for the calendar years 1943 and thereafter will operate to replenish the amount of benefits paid and to determine the effect of experience rating upon labor and industry in this State.

The Board shall submit its findings and recommendations based thereon to the sixty-third General Assembly, including, if it is found that the rates for 1943 and thereafter will not provide for replenishment of benefits paid out, a recommendation of such adjustment of rates as will accomplish this purpose. The Board may employ such experts and assistants as may be necessary to carry out the provisions of this subsection. All expenses incurred in the making of this study, including the preparation and submission of its findings and recommendations, shall be paid in the same manner as is provided for the payment of costs of administration of this Act.

[Amended by Act approved June 30, 1943.]

§ 18a. Repealed by Act approved May 24, 1939.

§ 19. AGREEMENT TO CONTRIBUTIONS BY EMPLOYEES VOID.] Any agreement by an individual in the employ of any person or concern to pay all or any portion of an employer's contribution, required under this Act from such employer, shall be void, and no employer shall directly or indirectly make or require or accept any deduction from wages to finance the contribution required from him or require or accept any waiver of any right hereunder by an individual in his employ.

§ 20. (a) DUTIES AND POWERS OF THE DIRECTOR.] It shall be the duty of the Director to administer this Act. He shall appoint

a commissioner of placement and unemployment compensation, subject to the provisions of the State Civil Service Law, who shall have direction of all administrative activities of the Director in the administration of this Act, and such other powers and duties as shall be prescribed by the Director. He shall act as coordinating officer between the State employment service and the administration of unemployment compensation. The Director shall determine all questions of general policy, promulgate rules and regulations and be responsible for the administration of this Act.

(b) REGULATIONS AND GENERAL AND SPECIAL RULES.] General and special rules may be adopted, amended, or rescinded by the Director only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten days after filing with the secretary of state and publication in one or more newspapers of general circulation in this State. Special rules shall become effective ten days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the Director and shall become effective ten days after filing with the Secretary of State and, such filing shall be public notice of such regulation, amendment thereto or rescission thereof, as the case may be.

(c) PERSONNEL. Subject to other provisions of this Act, the Director is authorized to appoint, fix the compensation, and prescribe the duties and powers of such employees, accountants, experts, and other persons as may be necessary in the performance of his duties under this Act in accordance with the applicable provisions of the State Civil Service Law. The Commissioner of Placement and Unemployment Compensation may delegate to any such person such power and authority as he deems reasonable and proper for the effective administration of this Act, and the Director may in his discretion bond any person handling moneys or signing checks hereunder.

(d) ADVISORY COUNCILS. The Director may appoint local or industry advisory councils, composed in each case of an equal number of employer representatives and employee representatives who may fairly be regarded as such because of their vocation, employment, or affiliations, and of such members representing the general public as the Director may designate. The Board of Unemployment Compensation and Free Employment Office Advisors created by Section 6 of "The Civil Administrative Code of Illinois," approved March 7, 1917, as amended, and the local councils appointed by the Director pursuant to this section shall aid the Director in formulating policies and discussing problems related to the administration of this Act and in assuring impartiality and freedom from political influence in the solution of such problems. The Board of Unemployment Compensation and Free Employment Office Advisors and such local advisory councils shall serve without compensation, but shall be reimbursed for any necessary expenses.

(e) EMPLOYMENT STABILIZATION. The Director with the advice and aid of advisory councils, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining, and voca-

tional guidance; to investigate, recommend, advise and assist in the establishment and operation, by municipalities, counties, school districts, and the State, of reserves for public works to be used in times of business depression and unemployment; to promote the reemployment of unemployed workers throughout the State in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

(f) The Director shall create as many employment districts and establish and maintain as many state employment offices as he deems necessary to carry out the provisions of this Act. In addition to such offices and branches, the Illinois State Free Employment offices now in existence and such as may hereafter be created pursuant to the provisions of "An Act relating to employment offices and agencies," approved May 11, 1903, as amended, shall also serve as employment offices within the purview of this Act. All such offices and agencies so created and established, together with said Illinois Free Employment offices, shall constitute the State employment service within the meaning of this Act. The Department of Labor and the Director thereof may continue to be the state agency for cooperation with the United States Employment Service under an Act of Congress entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes," approved June 6, 1933, as amended.

The Director may cooperate with or enter into agreements with the Railroad Retirement Board with respect to the establishment, maintenance, and use of free employment service facilities. For the purpose of establishing and maintaining free public employment offices, the Director is authorized to enter into agreements with the Railroad Retirement Board, or any other agency of the United States charged with the administration of an unemployment compensation law, or with any political subdivision of this State, and as a part of any such agreement the Director may accept moneys, services, or quarters as a contribution, to be treated in the same manner as funds received pursuant to Section 24. [Amended by Act approved June 30, 1941.]

§ 21. COOPERATION WITH FEDERAL AGENCIES.] In the administration of this Act, the Director shall cooperate to the fullest extent consistent with the provisions of this Act, with the Social Security Board, created by the Federal Social Security Act, approved August 14, 1935, as amended; shall make such reports, in such form and containing such information as the Social Security Board may from time to time require and shall comply with such provisions as the Social Security Board may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the Social Security Board governing the expenditures of such sums as may be allotted and paid to this State under title III of the Social Security Act for the purpose of assisting in the administration of this Act.

Upon request therefor the Director shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary

occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this Act.

§ 22. (a) RECORDS AND REPORTS.] Each employing unit shall keep such true and accurate records with respect to services performed for it as may be required by the rules and regulations of the Director promulgated pursuant to the provisions of this Act. Such records together with such other books and documents as may be necessary to verify the entries in such records shall be open to inspection by the Director or his authorized representative at any reasonable time and as often as may be necessary. Every employer who is delinquent in the payment of contributions shall also permit the Director or his representative to enter upon his premises, inspect his books and records, and inventory his personal property and rights thereto, for the purpose of ascertaining and listing the personal property owned by such employer which is subject to the lien created by Section 26 of this Act in favor of the Director of Labor. Each employing unit which has paid no contributions for employment in any calendar year shall prior to January 30th of the succeeding calendar year file with the Director, on forms to be furnished by the Director, at the request of such employing unit, a report of its employment experience for such periods as the Director shall designate on such forms together with such other information the Director shall require on such forms for the purpose of determining the liability of such employing unit for the payment of contributions; in addition, every newly created employing unit shall file such report with the Director within 30 days of the date upon which it commences business. The Director, the Board of Review, or any referee may require from any employing unit any sworn or unsworn reports concerning such records as he or The Board of Review deems necessary for the effective administration of this Act, and every such employing unit or person shall fully, correctly and promptly furnish the Director all information required by him to carry out the purposes and provisions of this Act.

(b) DISCLOSURE OF INFORMATION. Except as is hereinafter provided in this section, information thus obtained or obtained from any individual pursuant to the administration of this Act, shall be confidential and shall not be published or be open to public inspection. A worker or his duly authorized agent may be supplied with information from such records to the extent necessary for the proper presentation of his claim for benefits or with his then existing or prospective rights to benefits; an employer may be furnished with such information as may be deemed proper within the discretion of the Director as is necessary to enable him to fully discharge his obligations or safeguard his rights under this Act; and the Director may furnish such information as he may deem proper to any public officer or public agency of this or any other State or the Federal government dealing with the administration of relief, public assistance, unemployment compensation, a system of public employment offices, wages and hours of employment or a public works program. Any officer or employee of the State who, except with authority of the Director or pursuant to his regulations, or as otherwise required

by law, shall disclose the same, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months, or both; and shall thereafter be disqualified from holding any appointment or employment by the State.

Nothing contained in this section, however, shall be deemed to interfere with the disclosure of certain records as provided for in Sections 21 and 27, or with the right to make available to the Bureau of Internal Revenue of The United States Department of the Treasury information obtained pursuant to the provisions of this Act.

(c) All letters, reports, communications or any other matters either oral or written, from an employer or his workers to each other, or to the Director or any of his agents, representatives or employees which shall have been written or made in connection with the requirements and administration of this Act or the regulations thereunder, shall be absolutely privileged and shall not be made the subject matter or basis for any suit for slander or libel in any court of this State, unless the same be false in fact and malicious in intent. [Amended by Act approved June 30, 1941.]

§ 23. Disposition of money collected.] (a) All contributions collected under this Act together with any interest thereon; all fines and penalties collected pursuant to this Act; any property or securities acquired through the use of such moneys; all earnings of such property or securities and any interest earned upon any such moneys shall be paid or turned over to and held by the State Treasurer as ex-officio custodian thereof separate and apart from all public moneys or funds of this State and shall be administered by the Director exclusively for the purposes of this Act.

No such moneys shall be paid or expended except upon the direction of the Director in accordance with such regulations as he shall prescribe pursuant to the provisions of this Act.

The State Treasurer shall be liable on his general official bond for the faithful performance of his duties in connection with the moneys in the clearing account, unemployment trust fund account, and benefit account provided for under this Act. Such liability on his official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to the liability upon any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered for losses sustained by any one of the accounts herein described shall be deposited in the account that sustained such loss.

The Treasurer shall maintain for such moneys three separate accounts: (1) a clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All moneys payable under this Act, upon receipt thereof by the Director, shall be forwarded to the Treasurer who shall immediately deposit them in the clearing account. Refunds payable pursuant to Section 25 (d) of this Act may be paid from the clearing account upon checks issued by the treasurer under the direction of the Director.

After clearance thereof all other moneys in the clearing account shall be immediately deposited with the Secretary of the Treasury of

the United States of America to the credit of the account of this State in the unemployment trust fund, established and maintained pursuant to Section 904 of the Federal Social Security Act, as amended.

The benefit account shall consist of all moneys requisitioned from this State's account in the unemployment trust fund and shall be expended solely for the payment of benefits and in accordance with regulations prescribed by the Director. The Director shall, from time to time (and solely for the payment of benefits), requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to the State's account therein, as he deems necessary for the payment of such benefits for a reasonable future period. The Treasurer as ex-officio custodian of such funds which shall be kept separate and apart from all other public moneys, shall issue his checks for the payment of benefits solely from the moneys so received into the benefit account, upon requisition of the Director.

Moneys in the clearing and benefit accounts shall not be commingled with other state funds but they shall be deposited as required by law and maintained in a separate account on the books of the depository bank.

Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for and may be utilized for the payment of benefits during succeeding periods, or, in the discretion of the Director, shall be redeposited with the Secretary of the Treasury of the United States to the credit of the State's account in the unemployment trust fund.

(b) MANAGEMENT OF FUNDS UPON DISCONTINUANCE OF UNEMPLOYMENT TRUST FUND. The provisions of this section to the extent that they relate to the unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this State's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein, belonging to this State shall be transferred to the State Treasurer as ex-officio custodian thereof, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties or securities in a manner approved by the Director in accordance with the provisions of this Act; *provided* that such money shall be invested in the bonds or other interest bearing obligations of the United States of America and of the State of Illinois: *And provided, further,* that such investment shall at all times be so made that all the assets shall always be readily convertible into cash when needed for the payment of benefits. The Treasurer shall dispose of such securities or other properties only upon the direction of the Director.

(c) Notwithstanding any requirements of the foregoing sub-

sections of this Section, the Director shall, prior to whichever is the later of (1) thirty days after the close of this session of the Legislature and (2) July 1, 1939, authorize and direct the Secretary of the Treasury of the United States to transfer from this State's account in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended, to the Railroad Unemployment Insurance Account, established and maintained pursuant to Section 10 of the Railroad Unemployment Insurance Act, an amount hereinafter referred to as the preliminary amount; and shall, prior to whichever is the later of (1) thirty days from the close of this session of the Legislature and (2) January 1, 1940 authorize and direct the Secretary of the Treasury of the United States to transfer from this State's account in said Unemployment Trust Fund to said Railroad Unemployment Insurance Account an additional amount, hereinafter referred to as the liquidating amount. The preliminary amount shall consist of that proportion of the balance in the clearing account, unemployment trust fund account, and benefit account as of June 30, 1939, as the total amount of contributions collected from "employers" (as the term "employer" is defined in Section 1(a) of the Railroad Unemployment Insurance Act) and credited to the clearing account, unemployment trust fund account and benefit account, bears to all contributions theretofore collected under this Act and credited to the clearing account, unemployment trust fund account and benefit account. The liquidating amount shall consist of the total amount of contributions collected from "employers" (as the term "employer" is defined in Section 1(a) of the Railroad Unemployment Insurance Act) pursuant to the provisions of this Act during the period July 1, 1939, to December 31, 1939, inclusive.

[Amended by Act approved June 30, 1943.]

§ 24. UNEMPLOYMENT COMPENSATION ADMINISTRATION COSTS.] All moneys received by the State or by the Director from any source for the financing of the cost of administration of this Act including all Federal moneys allotted or apportioned to the State or to the Director for said cost of administration of this Act, and including moneys received from the Railroad Retirement Board as Compensation for services or facilities supplied to said Board, or any moneys made available by this State or its political subdivisions and matched by moneys granted to this State pursuant to the provisions of the Wagner-Peyser Act, shall be received and held by the State Treasurer as ex-officio custodian thereof separate and apart from all other State moneys, and such funds shall be distributed or expended upon the direction of the Director and shall be distributed or expended solely for the purposes and in the amounts found necessary by the Social Security Board for the proper and efficient administration of this Act.

If any moneys received after June 30, 1941, from the Social Security Board under Title III of the Social Security Act, or any unencumbered balances as of that date held by the State Treasurer as ex-officio custodian thereof by virtue of the first paragraph of this Section, or any moneys granted after that date to this State pursuant to the provisions of the Wagner-Peyser Act, or any moneys made avail-

able by this State or its political subdivisions and matched by moneys granted to this State pursuant to the provisions of the Wagner-Peyser Act, are found by the Social Security Board, because of any action or contingency, to have been lost or expended for purposes other than, or in amounts in excess of, those found necessary by the Social Security Board for the proper administration of this Act, it is the policy of this State that such moneys shall be replaced by moneys appropriated for such purpose from the general funds of this State for expenditure as provided in the first paragraph of this Section. The Director shall report to the Department of Finance, in the same manner as is provided generally for the submission by State Departments of financial requirements for the ensuing biennium, and the Governor shall include in his budget report to the next regular session of the General Assembly, the amount required for such replacement. This paragraph shall not be construed to relieve this State of its obligation with respect to funds received prior to July 1, 1941, pursuant to the provisions of Title III of the Social Security Act.

Moneys in this fund shall not be commingled with other State funds, but they shall be deposited as required by law and maintained in a separate account on the books of the depository bank.

The State Treasurer shall be liable on his general official bond for the faithful performance of his duties as custodian of such moneys as may come into his hands by virtue of this Section. Such liability on his official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to the liability upon any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered for losses sustained by the fund herein described shall be deposited therein. [Amended by Act approved June 30, 1941.]

§ 25. DETERMINATION AND ASSESSMENT OF CONTRIBUTIONS BY THE DIRECTOR—AND COLLECTION THEREOF.] (a) (1) If it shall appear to the Director that any employing unit or person has failed to pay any contribution, interest or penalty as and when required by the provisions of this Act or by any rule or regulation of the Director, or if the amount of any contribution payment made by an employing unit for any period is deemed by the Director to be incorrect in that it does not include all contributions payable for such period or if the Director shall find that the collection of any contributions which have accrued but are not yet due will be jeopardized by delay, and declares said contributions immediately due and payable, or if it shall appear to the Director that he has made any final assessment which did not include all contributions payable by the employer for the periods involved, or if it appears to the Director that any employing unit or person has, by reason of any act or omission or by operation of law, become liable for the payment of any contributions, interest or penalties not originally incurred by him, the Director may in any of the above events determine and assess the amount of such contributions or deficiency, as the case may be, together with interest and penalties due and unpaid, and immediately serve notice upon such employing unit or person of such determination and assess-

ment and make demand for payment of the assessed contribution together with interest and penalties thereon. If the employing unit or person incurring any such liability has died, such assessment may at the discretion of the Director be made against his personal representative. Such determination and assessment by the Director shall be final at the expiration of 20 days from the date of the service of such written notice thereof and demand for payment, unless such employing unit or person shall have filed with the Director a written protest and and a petition for a hearing, specifying its objections thereto. Upon the receipt of such petition within the 20 days allowed, the Director shall fix the time and place for a hearing and shall notify the petitioner thereof. The Director may amend his determination and assessment at any time before it becomes final. In the event of such amendment the employing unit or person affected shall be given notice thereof and an opportunity to be heard in connection therewith. At any hearing held as herein provided, the determination and assessment that has been made by the Director shall be prima facie correct and the burden shall be upon the protesting employing unit or person to prove that it is incorrect. Upon the conclusion of such hearing a decision shall be made by the Director either canceling, increasing, modifying or affirming such determination or assessment and notice thereof given to the petitioner. Such notice shall contain a statement by the Director of the cost of the certification of the record computed at the rate of 5c per 100 words. The record shall consist of the notices and demands caused to be served by the Director, the original determination and assessment of the Director, the written protest and petition for hearing, the testimony introduced at such hearing, the exhibits produced at such hearing, or certified copies thereof, the decisions of the Director and such other documents in the nature of pleadings filed in the proceeding.

FINALITY OF FINDING OF DEPUTY, REFEREE, OR BOARD OF REVIEW IN PROCEEDINGS BEFORE THE DIRECTOR OR HIS REPRESENTATIVE. If at any hearing held pursuant to any provision of this Section before the Director or his duly authorized representative it shall appear that in a prior proceeding, before a deputy, Referee or the Board of Review a decision was rendered in which benefits were allowed to a claimant, based upon a finding by such deputy, Referee or Board of Review as the case may be, that (1) the petitioning employing unit is an employer as defined by this Act, or (2) that the claimant has rendered services for such employing unit that constitute employment as defined by this Act, or (3) the claimant was paid or earned, as the case may be, any sum that constitutes "wages" as defined by this Act, and that such employing unit was given notice of such prior proceedings and an opportunity to be heard by appeal to such Referee or the Board of Review as the case may be, in such prior proceeding, and that such decision of the Deputy, Referee or Board of Review allowing benefits to the claimant became final, the aforementioned finding of the Deputy, Referee or the Board of Review, as the case may be, shall be final and incontrovertible as to such employing unit, in the proceedings before the Director or his duly authorized repre-

sentative, and shall not be subject to any further right of judicial review by such employing unit. If after the hearing held pursuant to this section, the Director shall find that services were rendered for such employing unit by other individuals under circumstances substantially the same as those under which the claimant's services were performed, the finality of the findings made by the Deputy, Referee or the Board of Review, as the case may be, as to the status of the services performed by the claimant shall extend to all such services rendered for such employing unit, but nothing in this section shall be construed to limit the right of any claimant to a fair hearing as provided in section 9 of this Act.

Any decision of the Director made pursuant to the provisions of this section shall be final and conclusive, unless reviewed as in this section hereinafter provided.

(2) REVIEW BY WRIT OF CERTIORARI TO THE CIRCUIT COURT. The Circuit Court of the county wherein the hearing was held shall by writ of certiorari to the Director have power to review all questions of law and fact presented by the record. Such suit by writ of certiorari shall be commenced within 20 days of the service of notice of the decision of the Director upon the employing unit affected thereby. Such proceedings before the courts shall be given precedence over all other civil cases except cases arising under the Workmen's Compensation Act of this State.

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 nor 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 the Director 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 Director and other parties in interest by mailing notices of the commencement of the proceedings and the return day of the writ to the offices of the said Director 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 copies of the writ of certiorari to the offices of the Director 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 such notice in pursuance of this Section, which shall be evidence of service on the Director and other parties in interest. The Director shall not be required to certify the record to the Circuit Court unless the party commencing such proceedings for review as above provided shall pay to the Director the cost of certification of the record as herein provided. It shall be the duty of the Director or of the Commissioner of Placement and Unemployment Compensation, in the absence of the Director, upon receipt of such payment to prepare and certify to the court a true and correct typewritten copy of all matters contained in such record.

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 Director shall exhibit to the Clerk of said Circuit Court a receipt showing payment of the cost of the certification of the record.

The court may confirm or set aside the decision of the Director. If the decision is set aside and the facts found in the proceedings before the Director are sufficient, the court may enter such decision as is justified by law, or may remand the cause to the Director for further proceedings and may state the questions requiring further hearing, and give such other instructions as may be proper. In case the court shall affirm the decision of the Director, it may proceed to enter judgment in said action against the petitioning employing unit for the amount of contributions assessed against it together with interest and penalties and costs upon which judgment execution may issue as in other cases.

Judgments and orders of the Circuit Court under this Act shall be reviewed by appeal to the Supreme Court in the same manner as in other civil cases.

It shall be the duty of the Clerk of any court rendering a decision affecting a decision of the Director to promptly furnish the Director with a copy of such court's decision, without charge, and the Director shall enter an order in accordance with such decision.

(3) NOTICE BY REGISTERED MAIL—PLACE OF HEARING—BY WHOM CONDUCTED.] Whenever service of notice is required by this Section, such notice may be given by depositing same with the United States registered mail addressed to the employing unit concerned at its principal place of business, or its last known place of business, or may be served by any person of full age in the same manner as is provided by statute for service of process in civil cases. If represented by counsel in the proceedings before the Director then service of notice may be made upon such employing unit by mailing same to such counsel. All hearings provided for in this Section shall be held in the county wherein the employing unit has its principal place of business in this state, *provided* that if the employing unit has no principal place of business in this state, such hearing may be held in Cook County, *provided further* that such hearing may be held in any county designated by the Director if the petitioning employing unit shall consent thereto. The hearing herein provided for shall be conducted by the Director or by any full-time civil service employee of the Director by him designated. Such representative so designated by the Director shall have all powers given the Director by Sections 10 and 12 of this Act.

(b) If any employer shall default in any payment required to be made by him under this Act, the amount due from him may be collected by civil action against him brought in the name of the People of the State of Illinois, without regard as to whether or not the amount of such contributions has been assessed by the Director as provided in this section and whether or not contribution reports have been filed by the delinquent employer, and the same when collected, shall be treated in the same manner as contributions paid under this

Act, and such employer's compliance with the provisions of this Act requiring payments to be made under this Act shall date from the time of the payment of said money so collected. Civil action brought under this section to collect contributions or interest thereon from an employer shall be entitled to preference upon the calendar over all other civil actions except petition for judicial review under this Act and cases arising under the Workmen's Compensation Act of this State.

(c) Limitations. (1) In any case where an employing unit has filed with the Director a report setting forth the amount of contributions due for, or employment experience in, any period, no action shall be brought or determination and assessment of contributions be made against such employing unit for such period, more than five years after the date of the filing of the initial report covering the amount of contributions due for or employment experience in such period.

If any determination and assessment or the liability for the payment of any contribution or any part thereof shall be the subject matter of any proceeding before the Director, or his representative, or any court, the period during which such proceeding is so pending shall be added to the five year period herein provided for the making of determinations and assessments and the commencement of actions. For the purposes of this sub-section, a proceeding pursuant to any provision of Section 25 of this Act shall be deemed to be commenced on the date a protest is filed by the employing unit to the Director's determination and assessment and shall be deemed to be concluded upon the date when the Director's decision with reference to such protest and petition for hearing is served upon such employing unit.

(2) On and after January 1, 1942, no action shall be brought or determination and assessment of contributions made by the Director against any employing unit whose liability for the payment of contributions is based solely upon the employment experience of such employing unit prior to January 1, 1937.

(d) Refunds and adjustments. Not later than three years after the date upon which any contributions, interest or penalties thereon were paid, an employing unit which has paid such contributions, interest or penalties thereon erroneously, may file a claim with the Director for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof where such adjustment cannot be made *provided, however*, that no refund or adjustment shall be made of any contribution, the amount of which has been determined and assessed by the Director if such contribution was paid after the determination and assessment of the Director became final. Upon receipt of a claim the Director shall make his determination, either allowing such claim in whole or in part, or ordering that it be denied and serve notice upon the claimant of such determination. Such determination of the Director shall be final at the expiration of twenty days from the date of service of such notice unless the claimant shall have filed with the Director a written protest and a petition for hearing,

specifying his objections thereto. Upon receipt of such petition within the twenty days allowed, the Director shall fix the time and place for a hearing and shall notify the claimant thereof. At any hearing held as herein provided, the determination of the Director shall be prima facie correct and the burden shall be upon the protesting employing unit to prove that it is incorrect. All of the provisions of this section applicable to hearings conducted pursuant to sub-section (a) of this section shall be applicable to hearings conducted pursuant to this sub-section. Upon the conclusion of such hearing, a decision shall be made by the Director and notice thereof given to the claimant. Judicial review of the decision of the Director may be had in the same manner as is provided by Section 25(a) 2 of this Act. The decision of the Director shall be final and conclusive unless reviewed within the time provided in Section 25(a) 2 of this Act. If the Director shall decide that the claim be allowed in whole or in part, or if such allowance be ordered by the Court and the judgment of said Court has become final the Director shall if practicable, make adjustment without interest in connection with subsequent contribution payments by the claimant, and if adjustments thereof cannot practicably be made in connection with such subsequent contribution payments, then the Director shall direct the Treasurer to refund, and the Treasurer shall upon such direction, refund to the claimant the amount so allowed, without interest, from moneys in the clearing account established by Section 23, subsection (a) of this Act. Nothing herein contained shall prohibit the Director from making adjustment or refund upon his own initiative, within the time allowed for filing claim therefor, *provided* that the Director shall make no refund or adjustment of any contribution, the amount of which he has previously determined and assessed, if such contribution was paid after the determination and assessment became final.

If this State should not be certified by the Social Security Board under Section 903 of the Social Security Act for any year, the Director shall refund without interest to any instrumentality of the United States subject to this Act by virtue of permission granted in an Act of Congress, the amount of contributions paid by such instrumentality with respect to such year.

[Amended by Act approved June 30, 1943.]

§ 25½. EVIDENCE AND PROCEDURE.] (a) The Director may, as provided in Section 22, adopt regulations governing the conduct of hearings held pursuant to any provision of this Act. All such hearings shall be conducted in a manner provided by such regulations whether or not they prescribe a procedure which conforms to the common law or statutory rules of evidence or other technical rules or procedure, and no informality in the manner of taking testimony, in any such proceeding, nor the admission of evidence contrary to the common law rules of evidence, shall invalidate any decision made by the Director.

(b) At any hearing held pursuant to the provisions of this Act, all testimony shall be given under oath or affirmation.

(c) A copy of any document or record on file with the Director certified to be a true copy by the Director, or the Commissioner of

Placement and Unemployment Compensation, under the seal of the Department of Labor, shall be admissible in evidence at any hearing conducted pursuant to the provisions of this Act and in all judicial proceedings, in the same manner as are public documents.

(d) At any hearing held pursuant to the provisions of Sections 18 and 25 of this Act and in all judicial proceedings involving the review of any decision of the Board of Review or of any decision, order, ruling, determination and assessment, statement of benefit wages, or rate determination made by the Director, the finding or decision of the Board of Review, or decision, order, ruling, determination and assessment, statement of benefit wages, or rate determination of the Director, sought to be reviewed, shall be prima facie correct, and the burden shall be upon the person seeking such review to establish the contrary.

(e) At any hearing held pursuant to any of the provisions of this Act and in all judicial proceedings, the written report of any employee of the Director made in the regular course of the performance of such employee's duties, shall be competent evidence of the facts therein contained.

(f) In any action for the collection of contributions based upon a determination and assessment by the Director, it shall be presumed that such determination and assessment has been validly made and the burden shall be upon the defendant to prove the contrary. In any hearing conducted pursuant to Section 25 of this Act and in any action for the collection of contributions based upon contribution report forms issued to any employing unit and received by the Director in the regular course of his administration of this Act, such reports shall be admissible into evidence upon presentation without proof of execution and shall be prima facie evidence that the employing unit to whom such reports were issued was an employer during the period covered by such reports and of the liability of such employing unit for the payment of the amount of contributions therein set forth.

(g) A copy of any finding or decision of a deputy, Referee or the Board of Review and of any decision, order, ruling, determination and assessment, statement of benefit wages, or rate determination made by the Director, and of any notice served by the Director, upon certification by the Commissioner of Placement and Unemployment Compensation or the Director, to be a true and correct copy, and further certification that the records of the Director disclose that it was duly served upon the employing unit therein named shall be admissible into evidence in all hearings and judicial proceedings as prima facie proof that it was made, rendered, or issued and that it was duly served upon such employing unit at the time and in the manner stated in such certification.

[Amended by Act approved June 30, 1943.]

§ 26. (a) LIEN CREATED UPON ASSETS OF EMPLOYER — COMMENCEMENT — LIMITATION.] A lien is hereby created in favor of the Director upon all the personal property or rights thereto owned or thereafter acquired by any employer and used by him in connec-

tion with his trade, occupation, profession or business, from whom contributions, interest or penalties are or may hereafter become due. Such lien shall be for a sum equal to the amount at any time due from such employer to the Director on account of contributions, interest and penalties thereon. Such lien shall attach to such property at the time such contributions, interest or penalties became, or shall hereafter become, due. In all cases where a report setting forth the amount of such contributions has been filed with the Director, no action to enforce such lien shall be brought after three years from the date of the filing of such report and in all other cases no action to enforce such lien shall be brought after three years from the date that the determination and assessment of the Director made pursuant to the provisions of this Act became final.

(b) (1) INNOCENT PURCHASER—RECORDATION—WITHDRAWAL OF NOTICE. Such lien shall be invalid only as to any innocent purchaser for value of stock in trade of any employer in the usual course of such employer's business, and shall be invalid as to any innocent purchaser for value of any of the other assets to which such lien has attached, unless notice thereof has been filed by the Director in the office of the Recorder of Deeds of the county within which the property subject to the lien is situated. The Director may, in his discretion, for good cause shown, issue a certificate of withdrawal of notice of lien filed against any employer, which certificate shall be recorded in the same manner as herein provided for the recording of notice of liens. Such withdrawal of notice of lien shall invalidate such lien as against any person acquiring any of such employers' property or any interest therein, subsequent to the recordation of the withdrawal of notice of lien, but shall not otherwise affect the validity of such lien, nor shall it prevent the Director from re-recording notice of such lien. In the event notice of such lien is re-recorded, such notice shall be effective as against third persons only as of the date of such re-recordation.

(2) FILING OF NOTICE-LIEN INDEX. The Recorder of Deeds of each county shall procure at the expense of the county a file labeled "Unemployment Compensation Contribution Lien Notices" and an index book labeled "Unemployment Compensation Contribution Lien Index." When a notice of any such lien is presented to him for filing he shall file it in numerical order in the file and shall enter it alphabetically in the index. The entry shall show the name, and last known business address of the employer named in the notice, the serial number of the notice, the date and hour of filing, and the amount of contribution, interest and penalty thereon due and unpaid. When a certificate of complete or partial release of such lien issued by the Director is presented for filing in the office of the Recorder of Deeds where a notice of lien was filed, the Recorder shall permanently attach the certificate of release to the notice of lien and shall enter the certificate of release and the date in the Unemployment Compensation Contribution Lien Index on the line where the notice of lien is entered.

(3) PARTIAL RELEASE. The Director shall also have the power to issue a certificate of partial release of any part of the property subject to the lien if he shall find that the fair market value of that

part of such property remaining subject to the lien is at least equal to the amount of all prior liens upon such property plus double the amount of the liability for contributions, interest and penalties thereon remaining unsatisfied.

(4) RELEASE OF LIEN UPON FURNISHING OF BOND. Where the amount of or the liability for the payment of any contribution, interest or penalty is contested by any employing unit against whose property a lien has attached, and the determination of the Director with reference to such contribution has not become final, the Director may issue a certificate of release of lien upon the furnishing of bond by such employing unit in 125% the amount of the sum of such contribution, interest and penalty, for which lien is claimed, with good and sufficient surety to be approved by the Director conditioned upon the prompt payment of such contribution, together with interest and penalty thereon, by such employing unit to the Director immediately upon the decision of the Director in respect to the liability for such contribution, interest and penalty becoming final.

(c) DIRECTOR NOT REQUIRED TO PAY COSTS. Neither the Director nor the State of Illinois shall be required to furnish any bond nor to make a deposit for or pay any costs of any court or the fees of any of its officers in any legal proceedings, nor pay any costs or fees in connection with the recordation with the Recorder of Deeds of any county for any notice or other document filed by the Director in pursuance to the provisions of this Act, *provided, however,* that fees of Masters in Chancery shall be paid from funds held pursuant to Section 24, in the same manner as is provided by statute for the payment of fees to Masters in Chancery in tax foreclosure suits.

(d) PRIORITY OF LIEN. The lien herein created in favor of the Director shall be prior to all other liens whether general or specific, and shall be inferior only to any claim for wages filed pursuant to "An Act to protect employees and laborers in their claims for wages" approved June 15, 1887, as amended, in an amount not exceeding $250.00 for work performed within six months from the date of filing such claim, and to such liens as shall attach prior to the filing of Notice of Lien by the Director with the Recorder of Deeds as provided in this Act; *provided, however,* that in all cases where statutory provision is made for the recordation or other public notice of a lien, the lien of the Director shall be inferior only to such liens as shall have been duly recorded, or of which public notice shall have been duly given, in the manner provided by such statute, prior to the filing of notice of lien by the Director with the Recorder of Deeds as in this Act provided.

(e) FORECLOSURE OF LIEN. In addition and as an alternative to any other remedy provided by this Act, or by the laws of the State of Illinois the Director may enforce the lien herein created by petition in the name of the People of the State of Illinois to the Circuit Court of the county wherein the property subject to the lien is situated, praying that the lien which has attached to said property, be foreclosed and the aforesaid property be sold in the same manner as in cases of foreclosure of mortgages upon personal property in courts

of record. In all such cases, it shall not be necessary that said petition describe the property to which said lien has attached and it shall be the duty of the employer against whom such petition has been filed to file in said proceedings, a full and complete schedule, under oath, of all personal property and rights thereto which he owned at the time the contributions, upon which the lien sought to be foreclosed in [is] based, become due, or which he subsequently acquired, indicating upon such schedule the property so owned by such employer which was, or is used by such employer in connection with his trade, occupation, profession or business, and if such employer shall so fail to do after having been so ordered by the court, he may be punished as in other cases of contempt of court.

The court in which such proceedings shall be pending may issue such process, make such orders requiring the parties to appear and require such notice to be given as is, or may be made, in other civil actions and shall have the same power and jurisdiction of the parties in such matter, and the rules of practice shall be the same as in other civil cases except as is otherwise provided by this Act.

Upon sale of the aforesaid personal property, the proceeds shall be applied to the payment of the costs incurred in the proceeding; the satisfaction of such liens as have attached to said property in the order of their priority and the balance, if any, to such parties as the court shall find to be entitled thereto. The Director is hereby empowered to bid at any sale conducted pursuant to the provisions of this Act. [Amended by Act approved June 30, 1941.]

§ 26½. Liability of certain other persons for payment of contributions incurred by delinquent employers.] Every assignee, receiver, trustee in bankruptcy, liquidator, administrator, executor, sheriff, bailiff, mortgagee, conditional vendor, or any other person who shall sell substantially all of: (1) the business, or (2) the stock of goods, or (3) the furniture or fixtures, or (4) the machinery and equipment, or (5) the good-will of any employing unit shall at least seven (7) days prior to the date of such sale, notify the Director of the name and address of the person conducting such sale, the date, the place and the terms of such sale and a description of the property to be sold. Any assignee, receiver, trustee in bankruptcy, liquidator, administrator, executor, sheriff, bailiff, mortgagee, conditional vendor, or any other person who shall fail to observe the requirements of this Section shall be personally responsible for all loss in contributions, penalties and interest attributable to such failure to notify the Director as herein provided.

Any employing unit which shall, outside the usual course of its business, sell or transfer substantially all of any one of the classes of its assets hereinabove enumerated and shall cease to own said business, shall within ten (10) days after such sale or transfer, file such reports as the Director shall prescribe and pay the contributions, interest and penalties required by this Act with respect to wages for employment up to the date of said sale or transfer. The purchaser or transferee shall withhold sufficient of the purchase money to cover the amount of all contributions, interest and penalties due and unpaid by the seller or transferor; or if the payment of money is not involved, shall

withhold the performance of the condition that constitutes the consideration for the transfer, until such time as the seller shall produce a receipt from the Director showing that the contributions, interest and penalties have been paid or a certificate that no contributions, interest or penalties are due. If the seller or transferor shall fail to pay such contributions within the ten days specified, then the purchaser or transferee shall pay the money so withheld to the Director of Labor. If such seller or transferor shall fail to pay the aforementioned contributions, interest or penalties within the ten (10) days and said purchaser or transferee shall either fail to withhold such purchase money as above required or fail to pay the same to the Director immediately after the expiration of ten (10) days from the date of such sale as above required, or shall fail to withhold the performance of the condition that constitutes the consideration for the transfer in cases where the payment of money is not involved or is not the sole consideration, such purchaser or transferee shall be personally liable to the Director for the payment to the Director of the contributions, interest and penalties incurred by the seller or transferor up to the amount of the reasonable value of the property acquired by him.

Any person who shall acquire any property or rights thereto which at the time of such acquisition is subject to a valid lien in favor of the Director shall be personally liable to the Director for a sum equal to the amount of contributions secured by such lien but not to exceed the reasonable value of such property acquired by him.

[Amended by Act approved June 30, 1943.]

§ 27. STATE-FEDERAL COOPERATION.] The Director is hereby authorized to cooperate with the appropriate agencies and departments of the Federal government charged with the administration of any unemployment compensation law, and to comply with all reasonable Federal regulations governing the expenditures of sums allotted or apportioned to the State for such administration, and accepted by the State. The Director may make the State's records relating to the administration of this Act available to the Railroad Retirement Board, and may furnish the Railroad Retirement Board, at the expense of such Board, such copies thereof as the Railroad Retirement Board deems necessary for its purposes. [Amended by Act approved May 24, 1939.]

§ 28. RECIPROCAL BENEFIT ARRANGEMENTS.] (a) The Director is hereby authorized to enter into arrangements with the appropriate agencies of other states or the Federal government whereby:

(1) Services performed by an individual for a single employing unit for which services are customarily performed by such individual in more than one state shall be deemed to be services performed entirely within any one of the states (i) in which any part of such individual's service is performed or (ii) in which such individual has his residence or (iii) in which the employing unit maintains a place of business, *provided* there is in effect, as to such services, an election, by the employing unit, approved by the agency charged with the administration of such state's unemployment compensation law, pur-

suant to which all the services performed by such individual for such employing unit are deemed to be performed entirely within such state;

(2) Potential rights to benefits accumulated under the unemployment compensation laws of one or more states or under one or more such laws of the Federal Government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the Director finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to this State's Account in the Unemployment Trust Fund.

(3) Wages or services, upon the basis of which an individual may become entitled to benefits under an unemployment compensation law of another state or of the Federal Government, shall be deemed to be wages for insured work for the purpose of determining his rights to benefits under this Act, and wages for insured work, on the basis of which an individual may become entitled to benefits under this Act shall be deemed to be wages or services on the basis of which unemployment compensation under such law of another state or of the Federal Government is payable, but no such arrangement shall be entered into unless it contains provisions for reimbursements to this State's account in the Unemployment Trust Fund for such of the benefits paid under this Act upon the basis of such wages or services, and provisions for reimbursements therefrom for such of the compensation paid under such other law upon the basis of wages for insured work, as the Director finds will be fair and reasonable as to all affected interests; and

(4) Contributions due under this Act with respect to wages for insured work shall for the purposes of Section 18 (a) (3) of this Act be deemed to have been paid to the Director as of the date payment was made as contributions therefor under another State or Federal unemployment compensation law, but no such arrangement shall be entered into unless it contains provisions for such reimbursement to this State's account in the Unemployment Trust Fund of such contributions and the actual earnings thereon as the Director finds will be fair and reasonable as to all affected interests.

(b) Reimbursements paid pursuant to paragraph 3 of subsection (a) of this section shall be deemed to be benefits for the purpose of Sections 4, 18 and 23 of this Act. The Director is authorized to make to other State or Federal agencies and to receive from such other State or Federal agencies, reimbursements from or to this State's account in the Unemployment Trust Fund in accordance with arrangements entered into pursuant to subsection (a) of this section.

(c) The administration of this Act and of other State and Federal unemployment compensation and public employment service laws will be promoted by cooperation between this State and such other States and the appropriate Federal agencies in exchanging services, and making available facilities and information. The Director is therefore authorized to make such investigations, secure and transmit such information, make available such services and facilities and exercise such of the other powers provided herein with respect to the administration of this Act as he deems necessary or appropriate to facilitate the administration of any such unemployment compensation

or public employment service law, and in like manner, to accept and utilize information, services and facilities made available to this State by the agency charged with the administration of any such other unemployment compensation or public employment service law.

(d) To the extent permissible under the laws and Constitution of the United States, the Director is authorized to enter or cooperate in arrangements whereby facilities and services provided under this Act and facilities and services provided under the unemployment compensation law of any foreign government, may be utilized for the taking of claims and the payment of benefits under this Act or under the unemployment compensation law of such foreign government.

[Amended by Act approved June 30, 1943.]

§ 29. VIOLATIONS AND PENALTIES.] It shall be unlawful for any person or employing unit to:

(a) Make a false statement or representation or fail to disclose a material fact;

(1) To obtain, or increase, or prevent, or reduce any benefit or payment under the provisions of this Act, or under the unemployment compensation law of any State or the Federal Government, either for himself or for any other person; or

(2) To avoid or reduce any contribution or other payment required from an employing unit under this Act.

(b) Fail to pay a contribution due under the provisions of this Act.

(c) Fail to furnish any report, audit or information duly required by the Director under this Act.

(d) Refuse to allow the Director or his duly authorized representative to inspect or copy the payroll or other records or documents relative to the enforcement of this Act, or required by this Act.

(e) Make any deduction from the wages of any individual in its employ because of its liability for the payment of contributions required by this Act.

(f) Knowingly fail to furnish to any individual in its employ any notice, report or information duly required under the provisions of this Act or the Rules or Regulations of the Director.

(g) Attempt to induce any individual, directly or indirectly, (by promise of re-employment or by threat not to employ or not to re-employ or by any other means) to refrain from claiming or accepting benefits or to waive any other rights hereunder; or to maintain a re-hiring policy which discriminates against former individuals in its employ by reason of their having claimed benefits.

Any employing unit or person who wilfully violates any provision of this section or any other provision of this Act or any rule or regulation promulgated thereunder or does any act prohibited by this Act, or who fails, neglects or refuses to perform any duty required by any provision of this Act or Rule or Regulation of the Director, within the time prescribed by the Director, for which no penalty has been specifically provided, or who fails, neglects, or refuses to obey any lawful order given or made by the Director shall be guilty of a misdemeanor and be punished by a fine of not less than fifty dollars ($50.00) or

more than two hundred dollars ($200.00) or by imprisonment for a period not to exceed six months or by both such fine and imprisonment and each such act, failure, neglect, or refusal shall constitute a separate and distinct offense. If such person or employing unit is a corporation, the president, the secretary and the treasurer, and any other officer exercising corresponding functions, shall each be subject to the aforesaid penalties for the violation of any provision of this section of which he or they had or, in the exercise of his or their duties ought to have had knowledge.

All fines and penalties collected pursuant to the provisions of this section shall be paid or turned over to and held by the State Treasurer as ex-officio custodian thereof as provided in Section 23 of this Act. [Amended by Act approved June 30, 1941.]

§ 30. MONEYS AND INCREMENTS TO BE SOLE SOURCE OF BENEFITS UNDER ACT—NON LIABILITY OF STATE.] The moneys payable under this Act, together with increments thereon, shall be the sole and exclusive source for the payment of benefits payable hereunder, and such benefits shall be deemed to be due and payable only to the extent that such moneys payable under this Act with increments thereon, are available.

§ 31. SEPARABILITY OF PROVISIONS.] If any provision of this Act or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances, shall not be affected thereby.

§ 32. SAVING CLAUSE.] The legislature reserves the power to amend or repeal this Act at any time, and all rights, privileges or immunities conferred by this Act or by Acts done pursuant thereto, shall exist subject to such power.

§ 33. TITLE OF ACT.] This Act shall be known and may be cited as "The Unemployment Compensation Act."

APPROVED June 30, 1937.

COMPULSORY COVERAGE OF REJECTED EMPLOYERS

(Ill. Rev. Stat. Ch. 73, Pars. 1081-1091)

AN ACT *to provide insurance for employers who have been rejected by carriers respecting coverage under the Workmen's Compensation Act or Workmen's Occupational Diseases Act by assignment of the Industrial Commission and providing for the pooling of losses, and penalties for the violation of this Act.*

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

§ 1. In this Act, unless the context otherwise requires:

"Carrier" means any domestic, foreign or alien corporation,

company, partnership, association, society, order, individual or aggregation of individuals now or hereafter authorized to transact the business of writing or making compensation insurance or occupational diseases insurance in the State of Illinois, including the writing or making of such insurance by the exchanging of reciprocal or interinsurance contracts between individuals, partnerships and corporations; "Compensation Insurance" means insurance of any liability under the Workmen's Compensation Act; "Occupational Diseases Insurance" means insurance of any liability to provide and pay compensation under the "Workmen's Occupational Diseases Act" except Section 3 of said Act; "Commission" means the Industrial Commission.

§ 2. From and after the effective date of this Act, it shall be unlawful for any carrier to engage, in whole or in part, in writing compensation insurance or occupational diseases insurance, or both, in this State unless such carrier shall have filed with the Director of Insurance written acceptance of all provisions of this Act.

§ 3. (a) When it is found by the Commission that the application of an employer for compensation or occupational diseases insurance has been rejected in writing by three (3) carriers and that such employer is entitled to insurance, the Commission shall designate a carrier which shall be obligated to issue forthwith a standard policy providing such insurance for such employer; *provided, however,* no carrier shall be obligated to issue occupational diseases insurance to such employer unless such carrier is authorized by such employer to furnish compensation insurance. Such policy shall contain only the usual and customary provisions found in such policies, and shall cover the entire liability of the employer to pay compensation to employees under both the Workmen's Compensation Act and the Workmen's Occupational Diseases Act as respects the entire business operations of the employer within this State; *provided, however,* that occupational diseases insurance shall not be assigned for an employer who has not filed with the Commission a written election to pay compensation under the Workmen's Occupational Diseases Act. The Commission shall make equitable distribution of such assignments among carriers in such manner, that as far as practicable, no carrier will be assigned a larger proportion of premiums under assigned policies during any calendar year than that which the total of compensation and occupational diseases premiums written in this State by such carrier during the previous calendar year, bears to the total compensation and occupational diseases premiums written in this State by all carriers during the previous calendar year. The refusal of a carrier to issue voluntarily a policy providing compensation or occupational diseases insurance, or both, to an employer at a rate or rates reasonably commensurate with the risk may, in the discretion of the Commission, be considered to be a rejection of the employer's application for such insurance by such carrier within the meaning of this Act.

(b) Any employer shall be entitled to insurance pursuant to the provisions of this Act, *provided,* (1) such employer pays the esti-

mated annual premium therefor in advance or makes suitable provisions to pay the premium when due, (2) such employer shall have satisfied the Commission that such employer has complied or will comply substantially with all effective laws and lawful orders, rules and regulations made by public authorities relating to the welfare, health and safety of employees and, (3) such employer, in the opinion of the Commission, shall not be in default of payment of premiums for compensation and occupational diseases insurance contracted during the previous twelve (12) months.

(c) If, after the issuance of a policy providing insurance pursuant to the provisions of this Act, the carrier which issued the policy finds that the employer to whom the policy was issued is not or has ceased to be entitled to such insurance, the carrier shall have the right, with the approval of the Commission, to cancel such policy in the manner provided in the Workmen's Compensation Act and the Workmen's Occupational Diseases Act; *provided, however*, that the carrier desiring to cancel such policy shall give notice in writing to the Commission and the employer of its desire to cancel. The commission may approve such cancellation unless the employer shall within ten days after receipt of such notice file with the Commission objections thereto. If the employer shall file such objections the Commission shall hear and decide the case within a reasonable time thereafter. Reasonable notice as to the time and place of such hearing shall be given to all interested parties.

§ 4. (a) From and after the effective date of this Act all losses incurred under policies issued to employers pursuant to this Act shall be equitably distributed among all carriers in the manner herein provided. Such distribution of losses shall be effected through two (2) separate re-insurance pools; one constituted by and comprised of all carriers operating as mutual companies or on a reciprocal or inter-insurance plan herein called "Mutual Pool" and the other constituted by and comprised of all other carriers, herein called "Stock Pool." All losses incurred by members of the mutual pool shall be equitably distributed among all carriers which are members of such pool and all losses incurred by members of the stock pool shall be equitably distributed among all carriers which are members of the stock pool. The mutual pool shall distribute all losses incurred by its members during each calendar year under policies issued to employers pursuant to the provisions of this Act in such a manner that no member shall be required to pay a larger proportion of such losses than the volume of all compensational and occupational diseases insurance premiums written by such member in the State during the previous calendar year bears to the total volume of such insurance premiums written in the State by all members of the mutual pool during such previous calendar year; the stock pool shall distribute all losses incurred by its members during each calendar year under such policies in such a manner that no member shall be required to pay a larger proportion of such losses than the volume of all such insurance premiums written by such member in this State during the previous calendar year bears to the total volume of such insurance

premiums written in the State by all members of the stock pool during such previous calendar year. The words "premiums written" as used in this section shall mean gross premiums charged on all policies less all premiums returned to policy holders except dividends or savings refunded under participating policies. No carrier shall be authorized to write or to continue to write compensation or occupational diseases insurance in this State unless such carrier is a member of the pool herein designated for such carrier, *provided, however,* that a carrier designated for one pool may become a member of the other pool by and with the consent of the other pool.

(b) By arrangement between carriers which are members of the same pool and with the approval of the Commission and such pool a carrier may issue a policy to an employer who had been assigned by the Commission to another carrier and such issuance of a policy shall constitute a compliance with and be subject to the provisions of this Act, and shall not affect the allotment to the respective carriers of assignments thereafter to be made by the Commission.

(c) Any employer whose insurance has been assigned under the provisions of this Act, and which insurance is reassigned under the provisions of this Act shall be assigned to a carrier which is a member of the same reinsurance pool as the previous assigned carrier.

(d) At the termination of any compensation or occupational diseases insurance policy issued to an employer whose insurance has been assigned to a carrier under the provisions of this Act, any carrier may voluntarily provide such insurance for such employer on its own behalf, but in the event of any such voluntary insurance the carrier assuming such insurance shall pay into the pool in which the policy or policies of such employer were reinsured an amount equal to the excess of the losses incurred over the premiums collected during the entire period of insurance as an assigned employer.

(e) No employer whose insurance has been assigned to a carrier under the provisions of this Act may qualify as a self-insurer, even though eligible under other provisions of law unless such employer first pays into the pool in which the risk of such employer was reinsured an amount equal to the excess of the losses incurred over the premiums collected during the entire period of insurance as an assigned employer.

(f) "Losses Incurred" as used in paragraphs (d) and (e) of this section shall mean with respect to each policy, the losses paid and estimated to be paid under each such policy. Provision may be made under rules approved by the Commission for the subsequent adjustment of payments originally made pursuant to paragraphs (d) and (e) of this section on the basis of estimated losses incurred. Any dispute as to the amounts to be paid under paragraphs (d) and (e) of this section shall be resolved by the Commission upon hearing following reasonable notice to all interested parties.

(g) Each reinsurance pool shall adopt rules and regulations not inconsistent with the provisions of this section, which rules and regulations shall be submitted for approval to the Commission and shall be binding upon all members of such pool, when approved by the Commission.

§ 5. Nothing in this Act shall be construed to affect, in any way, the primary liability of the carrier to pay compensation in accordance with the provisions of the Workmen's Compensation Act and Workmen's Occupational Diseases Act.

§ 6. As respects every employer to whom a policy has been assigned pursuant to this Act, whose employees are or have been exposed to the hazards of asbestos, silica, or other similar dusts, the carrier insuring such employer during any portion of the period beginning July 1, 1937, and ending July 1, 1938, shall inspect and investigate the risk of such employer for the purpose of aiding the Commission in the performance of its duties under this Act, and shall submit within ninety (90) days after issuance of policy or renewal thereof, but, in any event, not later than October 1, 1938, to a central organization or bureau, to be designated by the Commission, reports of its inspections and investigations, and shall submit to the Commission such number of copies of such reports as the Commission may require. The Commission shall furnish one copy of the reports to the employer. Such inspections and investigations shall be made in accordance with rules made by the Commission, and such reports shall be reported only on the form approved by the Commission. Only one such examination and investigation shall be made as respects one employer.

§ 7. Any employer to whom a policy is issued pursuant to this Act may appeal, within sixty (60) days after the effective date of such policy, to the Commission on the ground that the premium charged upon such policy is not reasonable or is unfairly discriminatory and the Commission may, in its judgment, order a hearing of which all interested parties shall receive reasonable notice, and after such hearing may approve or disapprove the premium charged. In the event the premium charged is disapproved by the Commission, the Commission shall direct the carrier to which the employer was assigned to issue a policy or to adjust the premium thereof at a rate or rates found by the Commission to be adequate, reasonable and not unfairly discriminatory and the rate or rates so determined shall be effective as of the date of the policy, and be binding upon both the carrier and the employer.

§ 8. Nothing in this Act shall be construed to apply to employers and employees in the coal mining industry nor to the insurance of such employers.

§ 9. The Commission shall make and publish rules and orders for the carrying out of duties imposed upon it by this Act, 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 technical and common law rules of evidence shall not apply in the hearing of any dispute before the Commission.

The Commission shall have the same right to administer oaths and examine witnesses and to issue subpoenas as is granted to said Commission by the Workmen's Compensation Act.

§ 10. If any carrier refuses or neglects to comply with the provisions of this Act or with any lawful order or ruling made by the

Commission pursuant to this Act, it shall be the duty of the Commission to issue an order to such carrier to show cause why the license of such carrier to do business in this State should not be suspended, and after due notice and a hearing shall make a finding thereon and order such carrier forthwith to comply. If the carrier is found by the Commission to have refused or neglected to comply with the provisions of this Act, or with any lawful order or ruling made by the Commission, the Commission shall certify such finding to the Director of Insurance whose duty it shall be to suspend forthwith the license of such carrier to transact any insurance business in this State, until such carrier shall have complied with such order of the Commission.

§ 11. Every order or ruling of the Commission under this Act shall be subject to review by any party claiming to be aggrieved, in the same manner and form that reviews may be taken under the Workmen's Compensation Act for reviews of awards and decisions of the Industrial Commission. In any review of the decision of the Commission under Section 7 of this Act, the Commission shall be made an actual party respondent and it shall be the duty of the Attorney General to appear on behalf of the said Commission. [APPROVED JUNE 30, 1937.]

HEALTH AND SAFETY ACT

(Ill. Rev. Stat. Ch. 48, Pars. 137.1-137.21)

AN ACT *relating to the health and safety of persons employed, vesting in the industrial commission power to make reasonable rules relating thereto; providing for the enforcement thereof; and repealing certains Acts herein named.*

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

SECTION 1. The industrial commission is hereby vested with the power and authority to administer the provisions of this Act.

§ 2. This Act shall apply to all employers engaged in any occupation, business or enterprise in this State, and their employees except as follows:

(a) Nothing contained in this Act 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 anyone 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.

(b) Nothing contained in this Act shall be construed to apply to employers and employees in the coal mining industry.

§ 3. It shall be the duty of every employer under this Act to provide reasonable protection to the lives, health and safety of all persons employed by such employer. The industrial commission shall, from time to time, make, promulgate and publish such reasonable rules as will effectuate such purposes.

Such rules shall be clear, plain and intelligible as to those affected thereby and that which is required of them, and each such rule shall be, by its terms, uniform and general in its application wherever the subject matter of such rule shall exist in any business, occupation or enterprise having employees.

Nothing in this Act shall be construed to grant to the industrial commission the power to make any rule which will require the submission of any plan, specifications or other information concerning any proposed installation, alteration, construction, apparatus or equipment, or in any manner regulate the hours of labor of any employee in this State.

§ 4. To effectuate the purposes stated in Section 3, the Industrial Commission shall make such rules only for:

(a) The proper sanitation and ventilation of all places of employment to guard against personal injuries and diseases.

(b) The arrangement and guarding of machinery and the storing and placing of personal property to guard against personal injuries and diseases.

(c) The prevention of personal injuries and diseases by contact with any poisonous or deleterious materials, dust, vapors, gases or fumes.

(d) The prevention of personal injuries and diseases caused by exposure to artificial atmospheric pressure.

(e) The construction, setting, placing, erecting and maintenance of scaffolds, platforms, or other similar frameworks. [Amended by Act approved July 11, 1941.]

§ 5. Such rules of the industrial commission shall have the force and effect of law.

§ 6. The industrial commission may appoint advisory committees to suggest rules or changes therein. Representation on such committees of employer and employee shall be equal.

§ 7. The industrial commission, may, on its own initiative, or upon written petition, make, modify or repeal any rule or rules as provided in this Act, conforming with the following procedure:

(a) If the industrial commission shall resolve to institute such proceedings on its own initiative, it shall pass a resolution stating in simple terms the subject matter and purpose of such hearing, and shall place such resolution on file, and the matter shall proceed to hearing and disposition upon such resolution as hereinafter provided.

Every petition for hearing upon rules filed with the industrial commission shall state, in simple terms, the subject matter and purpose for which such hearing is requested. Such petition shall be signed by five (5) employees or five (5) employers, or by a majority

of employers, in a specified industry, and when such a petition is filed, the matter shall proceed to hearing and disposition upon such petition as hereinafter provided.

The industrial commission may, on its own motion, or the motion of any interested party, consolidate for joint hearing and joint disposition, any number of pending resolutions and petitions on related subject matters; *provided*, that the provisions of this Act as to notice of hearing shall be complied with as to each such petition or resolution so consolidated.

(b) When the industrial commission on its own initiative determines to consider any rule or rules, or when such a petition is filed, the commission shall set a date for a public hearing on such cause, not less than thirty (30) nor more than ninety (90) days after the date of the passage of the resolution by the commission of its intention to proceed on its own initiative, or after the filing of a petition, as the case may be.

(c) Notice of such hearing shall be given at least 30 days prior to the date of such hearing by publication in a newspaper of general circulation within the county in which the hearing is to be held, and by mailing notice thereof to any employer, and to any association of employers and to any association of employees who have filed with the industrial commission their names and addresses, requesting notice of such hearings, and stating the particular industry or industries concerning which they desire such notice. The notice of hearing shall state the time, place and subject matter of the hearing.

(d) Hearings shall be held in places reasonably convenient to the persons affected.

(e) At any such hearing, any interested party may submit any evidence pertinent to the subject matter of the hearing.

(f) The industrial commission or any member thereof, shall have the power to administer oaths in connection with any proceeding under this Act.

(g) Upon the conclusion of the hearing, the industrial commission shall enter in writing, its decision upon the subject matter of such hearing. Copies of the decision shall be mailed to interested parties whose name shall be on file with the commission, as hereinbefore provided, and a certified copy thereof shall be filed in the office of the Secretary of State at Springfield.

(h) Within thirty (30) days after the entry of a decision, rule or rules by the industrial commission, such commission may correct, modify or vacate such decision, rule or rules of its own motion, or upon written objection. Within such thirty (30) days, any person affected thereby may object in writing to the decision, rule or rules entered by the industrial commission, stating the specific grounds of his objection. The commission, in its discretion, may or may not act upon said objection.

(i) Any person affected thereby, whether or not such person participated in the previous proceedings, may within ninety (90) days after a decision, rule or rules is entered by the industrial commission, file a praecipe for a writ of certiorari in the circuit or superior court

of the county in which the subject matter of the hearing is situated, or, if the subject matter is situated in more than one county, then in any one of such counties for the purpose of having the reasonableness or lawfulness of the decision, rule or rules reviewed.

Upon filing of such praecipe, writ of certiorari shall issue directed to the industrial commission, returnable on a designated return date not less than ten (10) nor more than sixty (60) days from the issuance thereof.

The person or the parties filing the praecipe for writ of certiorari, or other interested parties, shall, on or before the return date as fixed, file in the office of the clerk of the court out of which said writ issued, specific grounds of objection to the particular decision, rule or rules sought to be reviewed.

Service of such writ of certiorari shall be had by serving a copy upon any member of the industrial commission or its secretary, which service shall be service upon the commission.

The commission shall certify the record of the proceedings to the said court. For the purpose of a writ of certiorari, the record of the industrial commission shall consist of a transcript of all testimony taken at the hearing, together with all exhibits, or copies thereof, introduced in evidence, and all information secured by the industrial commission on its own initiative which was introduced in evidence at the said hearing; a copy of the resolution or petition filed with the commission which initiated the investigation, and a copy of the decision filed in the said cause, together with all objections filed with the industrial commission, if any.

On such certiorari proceedings, the court may confirm or reverse the decision as a whole, or may reverse and remand the decision as a whole, or may confirm any of the rules contained in such decision, and reverse or reverse and remand with respect to other rules in said decision. The order of the court shall be a final and appealable order except as to such portion of the decision of the commission, or as to such rule or rules therein as may be remanded by the court.

The purpose of any such remanding order shall be for the further consideration of the subject matter of the particular decision, rule or rules remanded.

No new or additional evidence may be introduced in the court in such proceeding but the cause shall be heard on the record of the industrial commission as certified by it. The court shall review all questions of law and fact presented by such record, and shall review questions of fact in the same manner as questions of fact are reviewed by the court on certiorari proceedings under the Workmen's Compensation Act.

The court first acquiring jurisdiction by virtue of the filing of a praecipe for writ of certiorari seeking to review any decision, rule or rules of the industrial commission, shall have and retain jurisdiction of such review and of all other reviews from the same decision, rule or rules until such review is disposed of in said court.

Any person who subsequently, and within the time herein provided, has filed praecipe for writ of certiorari, may intervene in said

original cause in whatever county it may be pending by making a proper showing.

The industrial commission, in making return to any writ of certiorari where praecipe is filed subsequent to the first praecipe involving the same subject matter, shall file as its return, a statement that the record has theretofore been filed, or is about to be filed, in response to the first praecipe theretofore filed.

At the time of making such subsequent return, the industrial commission shall mail to the attorneys whose names appear on the said writ as attorneys for the petitioner therein, a true copy of the said return filed with the said court, which return shall state the county in which the first praecipe has been filed, the title and number of the case, and the return date of the said first writ of certiorari. Any party filing such subsequent praecipe for writ of certiorari may intervene in the said original proceeding or shall be foreclosed by the decision thereon.

Such intervenor shall be a party to the said proceeding to the same extent as the party who had filed the first praecipe, and may raise any additional question with respect to the subject matter by filing his specific objections in the said court within such time as the court may direct.

(j) Appeals from all final orders and judgments entered by the said court in review of the decision, rule or rules of the industrial commission, may be taken directly to the Supreme Court by either party to the action within forty-five (45) days after the entry of the order of the said court.

Appeals from orders of the said court shall be in the manner provided by law for other civil cases appealed to the Supreme Court.

Any proceeding in any court affecting a decision, rule or rules of the industrial commission, shall have priority in hearing and determination over all other civil proceedings pending in said court, except election contests.

(k) In all reviews or appeals under this Act, it shall be the duty of the Attorney General to represent the industrial commission and defend its decisions and rules.

§ 8. The industrial commission shall, in its decision, rule or rules, fix the effective date thereof; *provided*, no such decision, rule or rules shall become effective until ninety (90) days after the entry thereof by the industrial commission, nor shall any such decision, rule or rules become effective during the pendency of any proceedings for review or appeal thereof instituted pursuant to the provisions of this Act in which case such decision, rule or rules shall not become effective until such review or appeal, including, appeal to the Supreme Court, if any, has been disposed of by final order and the mandate shall have been filed with the industrial commission, and until a period of time has elapsed after the filing of such mandate equal to the period of time between the date of the entry of such decision, rule or rules by the industrial commission and the effective date as originally fixed by said commission.

§ 9. The industrial commission shall make and publish rules as to its practice and procedure in carrying out the duties imposed upon it by this Act, which rules shall be deemed *prima facie*, reasonable and valid.

§ 10. The owner, operator, manager or lessee of any place affected by the provisions of this Act and his agent, superintendent, subordinate or employee, and any employer affected by such provisions, shall, when requested by the industrial commission or any duly authorized agent thereof, furnish any information in his possession or under his control, which the industrial commission is authorized to require; shall answer truthfully all questions required to be put to him; shall admit any member of the industrial commission or its duly authorized representative to any place of employment which is affected by the provisions of this Act for the purpose of making inspection, and shall cooperate in the making of a proper inspection.

§ 11. The industrial commission or any member thereof shall have power:

(a) To issue subpoenas for and compel the attendance of witnesses and the production of pertinent books, papers, documents or other evidence.

(b) To hear testimony and receive evidence and to take or cause to be taken, depositions of witnesses residing within or without this State in the manner prescribed by law for depositions in civil cases in the circuit court. Subpoenas and commissions to take testimony shall be under seal of the industrial commission.

(c) Service of subpoenas may be made by any sheriff or constable, or any other person. The circuit, superior or county court of the county where any hearing is pending, or any judge thereof, either in term time or vacation, upon application of the industrial commission, or any member thereof, may, in his discretion, compel the attendance of witnesses, the production of pertinent books, papers, records or documents and the giving of testimony before the industrial commission or any member thereof, by an attachment proceedings, as for contempt, in the same manner as the production of evidence may be compelled before said court.

§ 12. The industrial commission shall make an annual report of its work under the provisions of this Act to the Governor on or before the first day of February of each year; and a biennial report to the Legislature on or before the first day of February of each odd-numbered year.

§ 13. All notices, orders, decisions, rules and other official action shall be in the name of the industrial commission.

§ 14. The industrial commission shall keep a full and complete record of all proceedings had before it or any member thereof, and all testimony shall be taken by a stenographer appointed by the industrial commission. The commission shall also keep records which will enable any employer, employee or their agents, to determine all action taken by the industrial commission with respect to the subject matter in which such employer and employee is interested. All such records shall be open to public inspection.

§ 15. At least once each year, the industrial commission shall publish, in printed form, all of its rules made pursuant to Section 4 of this Act which are in full force and effect at the time of such publication.

§ 16. The record required to be furnished by the industrial commission as a return to the writ of certiorari shall be furnished by the industrial commission without cost. In any appeal from the decision of the circuit or superior court to the Supreme Court under this Act, the clerk of such circuit or superior court in making up the record for use in the Supreme Court, shall incorporate therein the original transcript filed by the industrial commission in such circuit or superior court as a return to writ of certiorari, in lieu of a copy thereof.

§ 17. It shall be the duty of the department of labor to enforce the rules of the industrial commission promulgated by virtue of this Act; *provided*, the said industrial commission shall not take any part in the enforcement of any of its rules made in accordance with section 4 of this Act.

The department of labor, through its authorized agents, is hereby empowered to visit, and inspect at all reasonable times, all places of employment in this State affected by any rule made pursuant to section 4 of this Act; *provided*, that whenever any secret process is used in any factory, mercantile establishment, mill or workship the owner shall, whenever asked by the department of labor or its authorized agent file with said department an affidavit that the owner has in all respects complied with all effective rules made pursuant to the provisions of this Act and such affidavit shall be accepted in lieu of inspection of any room or apartment in which such secret process is carried on.

In the enforcement of the provisions of this Act, the department of labor and its authorized agents under the direction and supervision of the department of labor, shall give proper notice in regard to any violation of this Act to the persons owning, operating and managing any place of employment affected by any rule made pursuant to section 4 of this Act. Such notice shall be written or printed and signed officially by the director of labor or any person authorized by him, and said notice may be served by delivering the same to the person upon whom service is to be had, or by leaving at his usual place of abode, or business, an exact copy thereof, or by sending a copy thereof to such person by mail.

§ 18. Any person, firm or corporation, or any agent, manager or superintendent of any person, firm or corporation, who for himself or for such person, firm or corporation, after due notice by the department of labor or its authorized agent given in accordance with the provisions of this Act, fails or neglects to comply with any rule made pursuant to Section 4 of this Act, violation of which is referred to in said notice, or who obstructs or interferes with any examination or investigation being made by the department of labor or any of its authorized agents, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five

dollars ($25.00) and not more than one hundred dollars ($100.00) for the first offense; and upon conviction of the second or subsequent offense, shall be fined not less than fifty dollars ($50.00) and not more than two hundred dollars ($200.00); and in each case shall stand committed until such fine and costs are paid unless otherwise discharged by due process of law.

§ 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 March 1, 1938. If, however, the Industrial Commission shall make any rules pursuant to Section 4 of this Act, and it is designated in such rule that it is to replace any section or part of the said Act, and such rule becomes effective prior to March 1, 1938, then such section or part of the said Act shall replace such provision of the statute designated in such rule upon the effective date of said rule of the Industrial Commission, 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 accidents of employes," approved May 24, 1907, be and the same hereby is repealed, such repeal to take effect upon the passage of this Act.

[As amended by Act filed July 13, 1937.]

§ 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.

WORKMEN'S OCCUPATIONAL DISEASES ACT

(Ill. Rev. Stat. Ch. 48, Pars. 172.1-172.35)

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 stat-

ute 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 paragraphs (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 causal 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.

[As Amended by Act approved July 9, 1937.]

§ 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 same 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 payments 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 per centum 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 four 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 purpose 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 purpose 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 State Treasurer, or his duly authorized representative, shall be named as a party to all proceedings and receive the usual and customary notices of hearing in all cases involving claim for the loss of, or the permanent and complete loss of the use of one eye, one foot, one leg, one arm or one hand. In case of settlement contract or award involving the loss of or the permanent and complete loss of the use of any one of the

said members, it shall be the duty of the Industrial Commission, or a Commissioner or Arbitrator thereof, to award to the said Special Fund provided for in paragraph (c) of this section, the sum payable under subparagraph (20) of paragraph (e) of Section 8 to be paid by the employer or the insurance carrier if such employer is insured.

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.

In all cases involving disputed dependency claims it shall be the duty of the person filing such claim for or on behalf of the alleged dependents or for the funeral bill to name the State Treasurer as ex-officio custodian of the Fund, provided for in Section 7, paragraph (e), as a party to the said application for adjustment of claim. The said State Treasurer, or his duly authorized representative, shall have all rights of participation in the hearing and review of decisions as is provided under the provisions of this Act. For the purpose of administration, receipts and disbursements, the Special Fund provided for in paragraph (e) of this section shall be administered jointly with the Special Fund provided for in Section 7, paragraph (e) of the Workmen's Compensation Act. *Provided, further,* that at no time shall there be paid into said special fund on account of any one death a sum to exceed four 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 earnings 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 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.

(k) Where death results from an occupational disease which is sustained by an employee on or after July 1, 1941, and before July 1, 1943, compensation as provided in paragraphs (a), (b), (c), (d), and (h) of this section shall be computed according to the provisions of this section exclusive of this paragraph and paragraph (l) and after so computed shall be increased ten percentum. Such increase shall be accomplished by increasing the aggregate amount only; *provided,*

however, that in no case shall this paragraph operate to provide an aggregate increase of more than ten percentum of the aggregate compensation which but for this paragraph would be payable.

(l) Where death occurs to an employee as a result of an occupational disease sustained by such employee on or after July 1, 1943 compensation as provided in paragraphs (a), (b), (c), (d) and (h) of this section shall be computed according to the provisions of this section exclusive of paragraph (k) and this paragraph and after so computed shall be increased seventeen and one-half per centum. Such increase shall be accomplished by increasing the aggregate amount only; *provided, however*, that in no case shall this paragraph operate to provide an aggregate increase of more than seventeen and one-half per centum of the aggregate compensation which but for this paragraph would be payable.

[Amended by Act approved July 15, 1943.]

§ 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 per centum of the earnings, but not less than $7.50 nor more than $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 in-

capacity for work continues for a period of more than twenty-eight 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) and (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 if [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 or 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 of 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 than 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.

20. In every case of loss of, or permanent and complete loss of use of one eye, one foot, one leg, one arm or one hand, the employer in addition to the compensation as provided for in this section shall pay into the special fund provided for in Section 7, paragraph (e), the sum of two hundred twenty-five dollars, if the disablement occurs between July 1, 1939, and July 1, 1941, both dates inclusive; thereafter the amount payable into the said special fund shall be one hundred dollars for the loss of, or permanent and complete loss of use of any such member; *provided, however*, that the payments herein fixed at one hundred dollars may on and after the date when payments in such amount become effective, be suspended or reduced as herein provided, but in no event shall such payments be increased to exceed one hundred dollars.

Beginning July first, 1941, and each July first thereafter, the Industrial Commission shall determine the expenditures to be made

from the said special fund for the ensuing six months. If, upon such determination made by the Commission there shall be found to be in excess of fifty thousand dollars or more in the said special fund over and above the expenditures to be made therefrom during the ensuing six months, the Industrial Commission shall by order posted in its offices, suspend payments at the rate of one hundred dollars in this paragraph provided or reduce the amount payable to a sum less than said one hundred dollars, but sufficient to maintain such fifty thousand dollars excess, and such suspension or change in payments at the rate of one hundred dollars shall be effective with respect to disablements occurring on or after the date of such order.

(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 per centum, 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) Section 7 of this Act, the length of time said weekly payments shall continue, 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.

(l) Where the disablement or disability occurs on or after July 1, 1939, and before July 1, 1943, compensation due the injured employee during his lifetime under this section shall be computed according to the provisions of this section exclusive of this paragraph and paragraph (m), and after so computed shall be increased ten per centum. Such increase shall be accomplished by increasing each installment, and maximums otherwise applicable to the installment rate and the aggregate amount may be exceeded only by such increase; *provided* that in no case shall this paragraph operate to provide an aggregate increase of more than ten per centum of the aggregate compensation which but for this paragraph would be payable; *provided, further,* that this paragraph shall operate to increase the installment rate but not the aggregate amount payable to beneficiaries in cases of occupational diseases resulting in death except as to the disablement or disability occurring on or after July 1, 1941 and before July 1, 1943.

In applying the increase hereunder to compensation for disfigurement, the aggregate amount fixed by agreement or by arbitration shall be 10% greater than provided by paragraph (c) of this section, and the maximum, including such increase, shall be deemed 27½% instead of one-quarter of what the death benefit would have been.

(m) Where the disablement or disability occurs on or after July 1, 1943, compensation due the injured employee during his lifetime under this section shall be computed according to the provisions of this section, exclusive of paragraph (l) and this paragraph, and after so computed shall be increased seventeen and one-half per centum. Such increases shall be accomplished by increasing each installment, and maximums otherwise applicable to the installment rate and the aggregate amount may be exceeded only such increase; *provided* that in no case shall this paragraph operate to provide an aggregate increase of more than seventeen and one-half per centum of the aggregate compensation which but for this paragraph would be payable; *provided, further,* that this paragraph shall operate to increase the installment rate but not the aggregate amount payable to beneficiaries in cases of occupational diseases resulting in death except as to the disablement or disability occurring on or after July 1, 1943.

In applying the increase hereunder to compensation for disfigurement, the aggregate amount fixed by agreement or by arbitration shall be 17½% greater than provided by paragraph (c) of this section, and

the maximum, including such increase, shall be deemed 29⅜% instead of one-quarter of what the death benefit would have been.

[Amended by Act approved July 15, 1943.]

§ 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 rests: *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.

The payment of compensation in a lump sum to the employee in his lifetime upon order of the Industrial Commission shall extinguish and bar all claims for compensation for death if the compensation paid in a lump sum represents a compromise of a dispute on any question other than the extent of 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. [As amended by Act approved July 24, 1939.]

§ 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 earnings: *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 probably 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 testify 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 places 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 sec-

retary 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 judicial 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 an official court reporter to take the testimony and record of proceedings at the hearings before an arbitrator, committee of arbitration, or the commission, who shall furnish a transcript of such testimony or proceedings to either party requesting it, upon payment to him therefor of fourteen cents per one hundred words for the original and ten 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.

[Amended by Act approved July 15, 1943.]

§ 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 sub-

sequently 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 fourteen cents per one hundred words of testimony taken before said commission and eight 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 sec-

tion 8, paragraph (i) of this Act, shall be considered unreasonable delay.

[Amended by Act approved July 15, 1943.]

§ 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 the 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 further 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.

A minor death beneficiary, by parent or grandparent as next friend, may compromise disputes and may enter into and submit a settlement contract or lump sum petition, and upon approval by the Industrial Commission such settlement contract or lump sum order shall have the same force and effect as though such minor had been an adult. [As amended by Act approved July 24, 1939.]

§ 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: *Provided* that where such limitation bars an adult mentally competent member of a class of beneficiaries entitled to receive compensation for death, such limitation shall then bar all beneficiaries notwithstanding that another or others be mentally or otherwise incapacitated or incompetent. 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, where no compensation has been paid, or within one (1) year after the date of the last payment of compensation, where any has been paid, the right to file such application shall be barred; *Provided, further,* that if the occupational disease results in death within said year, application for compensation for death may be filed with the Industrial Commission within

one year after the date of death, but not thereafter. [As amended by Act approved July 24, 1939.]

§ 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 subparagraphs 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 misdemeanor 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 by 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, of 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 providing 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.

WASH ROOMS IN CERTAIN EMPLOYMENTS

(Ill. Rev. Stat. Ch. 48, Pars. 98, 102)

AN ACT *to provide for wash rooms in certain employments to protect the health of employees and secure public comfort.*

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

SECTION 1. Every owner or operator of a coal mine, steel mill, foundry, machine shop, railroad, or other like business in which employees become covered with grease, smoke, dust, grime and perspiration to such extent that to remain in such condition after leaving their work without washing and cleansing their bodies and changing their clothing, will endanger their health or make their condition offensive to the public, shall provide and maintain a suitable and sanitary washroom, with an adequate quantity of soap containing bland non-irritating detergents which effectively cleanse the skin, at a convenient place where employees are required to report for duty or are relieved

from duty, in or adjacent to such mine, mill, foundry, shop, railroad or other place of employment for the use of such employees.

[As amended by Act approved July 9, 1937.]

§ 2. Such wash room shall be so arranged that employees may change their clothing therein, and shall be sufficient for the number of employees engaged regularly in such employment; shall be provided with lockers or hangers in which employees may keep their clothing; shall be provided with an adequate supply of safe, clean and potable water satisfactory for drinking purposes dispensed in a sanitary manner, and with an adequate supply of safe, clean, hot and cold water satisfactory for shower and bathing purposes and with sufficient and suitable places and means for using the same; and provided with a sufficient number of showers for the use of employees who regularly use said wash room; and during cold weather shall be sufficiently heated. The floor space necessary for the men to dress in such wash room shall not be less than seven square feet per man regularly dressing in such wash room at any one time.

[As amended by Act approved July 9, 1937.]

§ 3. All State and county mine inspectors, the Department of Labor and other inspectors required to inspect places and kinds of business required by this act to be provided with wash rooms, shall inspect such wash rooms and report to the owner or operator, the sanitary and physical condition thereof in writing, and make recommendations as to such improvements or changes as may appear to be necessary for compliance with this Act. Any such inspector may lock and close any wash room found to be in violation of this Act, and may institute proceedings to enforce the penalty provided in Section 4.

[Amended by Act approved June 3, 1943.]

§ 4. Any owner or employer who shall fail or refuse to comply with the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than two hundred dollars.

[As amended by Act approved July 9, 1937.]

§ 5. Any owner or employer who shall be convicted of a violation of the provisions of this Act shall be subject to a conviction for succeeding offenses for each and every day he shall neglect or refuse to comply herewith.

Approved June 26, 1913.

WORK UNDER COMPRESSED AIR ACT

(Ill. Rev. Stat. Ch. 48, Pars. 261-268)

An Act *in relation to employment under compressed air.*

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

Section 1. When used in this Act, unless the context indicates otherwise, the term

(a) "Caisson" means a wood, steel, concrete or reenforced concrete air-tight and water-tight chamber in which it is possible for men to work to excavate material.

(b) "Lock" means a chamber designed to facilitate the passage of men and materials from an air pressure greater than normal, as in a compartment, caisson or tunnel, to the ground or water level or normal air pressure.

(c) "Pressure" means gauge air pressure in pounds per square inch.

(d) "Tunnel" means a subterranean passage or chamber.

§ 2. The working period of any person under compressed air in any compartment, caisson, tunnel or places shall be divided into two periods under compressed air with an interval of rest between the two periods. If the air pressure exceeds fifteen pounds per square inch, the said interval of rest must be spent in the open air. Persons who have not previously worked in compressed air, when the air pressure exceeds fifteen pounds per square inch, shall work therein only one of the two said periods during the first twenty-four hours of their employment. Except in cases of extreme emergency no person shall be employed or subjected to pressure exceeding fifty pounds per square inch. The maximum number of hours to each period and the minimum rest intervals between the periods during any twenty-four hours for any pressure as given in columns one and two of the following table shall be set opposite such pressure in columns three, four, five, six and seven of said table:

PERIODS AND INTERVALS OF WORK FOR EACH TWENTY-FOUR HOUR PERIOD

Pressure			Hours			
More than minimum number of pounds	Not more than maximum number of pounds	Maximum total hours	First period in compressed air-hours	Minimum interval of rest in open air-hours	Minimum interval of rest-hours	Maximum second period in compressed air-hours
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Normal	15	8	*		1/3	*
15	26	6	3	1		3
26	33	4	2	2		2
33	38	3	1½	3		1½
38	43	2	1	4		1
43	48	1½	¾	5		¾
48 or	over	1	½	6		½

*The employer may determine the time of each period when the pressure is not more than fifteen pounds per square inch, *provided* that the total for the periods does not exceed eight hours. The limits or hours as specified in said table shall apply according to the maximum pressure attained at any time during the period.

§ 3. No person employed in compressed air shall be permitted to pass from the working chamber to normal air, except after decompression in a lock as follows:

(a) Where the air pressure is greater than normal and not more than fifteen pounds per square inch, the time of decompression shall be at least two minutes;

(b) Where the air pressure is more than fifteen pounds per square inch, and not more than twenty-six pounds per square inch, decompression shall be at the average rate of not more than three pounds per minute;

(c) Where the air pressure is more than twenty-six pounds per square inch, and not more than thirty-three pounds per square inch, decompression shall be at the average rate of not more than two pounds per minute;

(d) Where the air pressure is more than thirty-three pounds per square inch, decompression shall be at the average rate of not more than one pound per minute;

(e) Where the air pressure is more than fifteen pounds per square inch, a stage decompression shall be used in which a drop of one-half of the maximum gauge pressure shall be at the rate of five pounds per minute. The remaining decompression shall be at a uniform rate and the total time of decompression shall equal the time specified for the original maximum pressure;

(f) The time of decompression shall be posted in each man lock.

§ 4. Every employer of workers in compressed air and every agent, foreman, manager or superintendent thereof in charge of such work, shall be responsible for the observance of this Act.

§ 5. Any employer of workers under compressed air or any agent, foreman, manager or superintendent thereof in charge of such work, who violates any of the provisions of this Act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished for the first offence by a fine of not less than Twenty-Five ($25.00) Dollars and not more than One Hundred ($100.00) Dollars; and upon conviction of a second or subsequent offence shall be fined not less than Fifty ($50.00) Dollars and not more than Two Hundred ($200.00) Dollars; and in each case shall stand committed until such fine and costs are paid unless otherwise discharged by due process of law.

§ 6. It shall be the duty of the Department of Labor to enforce the provisions of this Act and prosecute all violations of the same before any Court of competent jurisdiction in this State, and for that purpose the Department of Labor, its officers and duly authorized employees are hereby empowered to visit and inspect at all reasonable times, all places where work is done in compressed air.

§ 7. The invalidity of any portion of this Act shall in no way affect the validity of any other portion hereof.

§ 8. This Act may be cited as "The Work Under Compressed Air Act."

APPROVED July 25, 1939.

CHILD LABOR

(Ill. Rev. Stat. Cha. 48, Pars. 17-31)

AN ACT *to amend, "An Act concerning child labor and to repeal an Act entitled, 'An Act to regulate the employment of children in the State of Illinois, and to provide for the enforcement thereof' ", approved May 15, 1903, as amended.*

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

SECTION 1. "An Act concerning child labor, and to repeal an Act, entitled, 'An Act to regulate the employment of children in the State of Illinois, and to provide for the enforcement thereof,' " approved May 15, 1903, as amended, is amended to read as follows:

§ 1. No minor under the age of fourteen years shall be employed, permitted or suffered to work at any gainful occupation in, for or in connection with, any theatre, concert hall or place of amusement, or any mercantile institution, store, office, hotel, laundry, manufacturing establishment, mill, cannery, factory or workshop therefor, within the State.

§ 2. It shall be the duty of every person, firm or corporation, agent or manager, superintendent or foreman of any firm or corporation employing minors over the age of fourteen and under the age of sixteen years for or in connection with any theatre, concert hall or place of amusement, or any mercantile institution, store, office, hotel, laundry, manufacturing establishment, mill, cannery, factory or workshop within this State, to keep a register in said theatre, concert hall or place of amusement, or in said mercantile institution, store, office, hotel, laundry, manufacturing establishment, mill, cannery, factory or workshop in or for or in connection with which said minors shall be employed or permitted or suffered to work, in which register shall be recorded the name, age and place of residence of every minor employed or suffered or permitted to work therein, or therefor, or in connection therewith, over the age of fourteen and under the age of sixteen years; and it shall be unlawful for any person, firm or corporation, agent or manager, superintendent or foreman of any firm or corporation to hire or employ or to permit or suffer to work in

or for or in connection with any theatre, concert hall or place of amusement, or any mercantile institution, store, office, hotel, laundry, manufacturing establishment, mill, cannery, factory or workshop, any minor over the age of fourteen and under the age of sixteen years, unless there is first procured and placed on file in such theatre, concert hall or place of amusement or in such mercantile institution, store, office, hotel, laundry, manufacturing establishment, mill, cannery, factory or workshop, an employment certificate issued as hereinafter provided and accessible to the authorized officers or employees of the Department of Labor, and to the truant officers or other school officials charged with the enforcement of the compulsory education law.

§ 3. Every person, firm or corporation, agent or manager, superintendent or foreman of a corporation, employing or permitting or suffering to work five or more minors over the age of fourteen and under the age of sixteen years, in or for, or in connection with any theatre, concert hall or place of amusement, or any mercantile institution, store, office, hotel, laundry, manufacturing establishment, mill, cannery, factory or workshop, shall post and keep posted in a conspicuous place in every room in or in connection with which such help is employed or permitted or suffered to work, a list containing the name, age and place of residence of every minor over the age of fourteen and under the age of sixteen years, employed, permitted or suffered to work in or in connection with such room.

§ 4. An employment certificate shall be issued only by the superintendent of schools or by a person authorized by him in writing; or where there is no superintendent of schools, by a person authorized by the school board or other local school authority or in counties of the first and second classes during vacation by the county superintendent of schools: *Provided,* that no member of a school board or other person authorized as aforesaid, shall have authority to issue such certificates for any minor then in or about to enter his own establishment, or the employment of a firm or corporation of which he is a member, officer or employee. The person issuing these certificates shall have authority to administer the oaths provided for herein, but no fee shall be charged therefor. It shall be the duty of the school board or local school authority, to designate a place or places (connected with their offices when practicable), where certificates shall be issued and recorded, and physical examinations made without fee, as hereinafter provided, and to establish and maintain the necessary records and clerical service for carrying out the provisions of this Act.

§ 5. The official authorized to issue an employment certificate to any minor shall issue such certificate only upon the application in person of the minor desiring employment, accompanied by the parent, guardian or custodian of such minor and after having received, examined and approved the following papers, namely:

(a) A school record, as hereinafter provided.

(b) A certificate of physical fitness, as hereinafter provided.

(c) Proof of age, as hereinafter provided.

(d) A statement signed by the prospective employer, or by some one duly authorized on his behalf, stating that he expects to give such

minor present employment, and setting forth the character of the same and the number of hours per day and of days per week, which said minor shall be employed.

For the issuance of an employment certificate, the school record required by this Act shall be filled out and signed by the principal of the school, public or private or parochial, which the minor has last attended, or by some one duly authorized by him, or during vacation by the county superintendent of schools in counties of the first and second classes, and shall be furnished to any minor who may be entitled thereto: *Provided*, said minor shall have first secured proof of age and statement signed by the prospective employer, as provided in this section. It shall certify that the said minor is able to read and write legibly, simple sentences in the English language and has completed a course of study equivalent to the work prescribed for the first eight years of the public elementary school, in spelling, reading, writing, arithmetic to and including fractions, geography and history, and has attended school for at least 130 days during the year preceding the date of his application for his first employment certificate, or between his thirteenth and fourteenth birthday. Such school record shall also give the full name, date of birth, and residence of minor, and the name and residence of the parent, guardian or custodian, as shown on the records of the school.

The school record shall be in the following form:

SCHOOL RECORD.

Name of parent or guardian or custodian.....
.....
Residence of parent or guardian or custodian.....
.....
Name of minor.....
Residence of minor.....
Date of birth of minor.....
Signature of minor.....

I hereby certify that the above named minor is able to read and write legibly simple sentences in the English language; that he has completed the work of the.....grade in the.....
school (location).....; that he has completed a course of study equivalent to the work prescribed for the first eight years of the public elementary school in spelling, reading, writing, arithmetic to and including fractions, geography and history, and that he has attended school for.....days during the year preceding the date of issuance this school record, or between his thirteenth and fourteenth birthdays. The date of last attendance in this school was.....

Signature of Principal.....

The certificate of physical fitness required by this Act for any minor shall be signed by a physician appointed by the municipal health department, the board of education, or other local school authority, and shall state that the said minor has been thoroughly

examined by the said physician at the time of his application for an employment certificate, and is physically qualified for the employment specified in the statement submitted in accordance with the requirements of this section and is of sound health and of normal physical development for a child of his age.

The evidence of age required by this Act shall consist of one of the following proofs of age, which shall be required in the order herein designated:

(a) A duly attested transcript of the birth certificate, furnished free by the State, filed according to law with a registrar of vital statistics, or other officer charged with the duty of recording birth; such registration having been completed within the ten years after date of birth; or,

(b) A baptismal certificate or transcript of the record of baptism, duly certified, and showing the date of birth, and place of baptism; or,

(c) A passport showing the age of the minor; or,

(d) In case none of the aforesaid proofs of age shall be obtainable, and only in such case, the issuing officer may accept, in lieu thereof, other documentary record of age (such as official certificate of arrival in the United States, bona fide Bible record, confirmation certificate or life insurance policy which are at least one year old at the time of the minor's application for the permit), or transcript thereof, duly certified, which shall appear to the satisfaction of the issuing officer to be good and sufficient evidence of age; or, in case none of the aforesaid proofs of age shall, in the judgment of the officer having power to issue employment certificates be obtainable, such officer may accept in lieu thereof, a written statement signed by the head teacher or principal of the public or private school which such child has attended, certifying that he or she was in.....grade, and can read and write legibly simple sentences in English, and further certifying the name, age, place and date of birth of such child as shown by the official record of such school for at least two years during the period such minor was in attendance thereat; or,

(e) In case none of the aforesaid proofs of age shall be obtainable, and in such cases only, the issuing officer may accept, in lieu thereof, the signed statement of two physicians, at least one of whom shall be a public health officer or public school physical inspector, stating that they have separately examined the minor and that in their opinion the minor is at least fourteen years of age, or in case where such appears to be true that said minor is at least sixteen years of age.

§ 5a. Vacation certificates may be issued in the same manner and under the same conditions that certificates are issued for employment during the regular session of the school, except that for such vacation permits to children who have reached their fourteenth birthday, no proof of education qualifications shall be necessary and no school record required, as in the case of the regular certificates, but any such vacation certificate shall be valid only for the period indicated upon the certificate, which must be limited to the time during vacation of the public schools in the town, district or city where the child resides.

Any employer who fails to dismiss from his services, any employee named in a vacation certificate upon the expiration thereof, or fails to return such certificate to the authorities who issued the same, upon the expiration thereof, shall be subject to a fine of not less than ten ($10.00) dollars nor more than fifty ($50.00) dollars.

Such vacation certificate shall bear upon its face the date of its expiration.

§ 5b. The persons authorized to issue employment certificates may issue a permit to work outside of school hours to any minor over the age of fourteen and under the age of sixteen, regardless of what schooling he has completed, for a period of time which when added to the time such minor is required by law to attend school shall not exceed eight hours in any one day, which time shall be between 7 o'clock a. m. and 7 o'clock p. m. *Provided*, that the person issuing any such permit to work outside of school hours shall immediately notify in writing, the principal of the school which the minor is attending, and if at any time, to the satisfaction of the person issuing such permit to work, it appears that the school work or the health of such minor is being impaired by such employment, the authority issuing such permit may revoke the same. Such employment certificate shall have printed across the face in red "Permit for work out of school hours," and shall be issued within the requirements prescribed in Section 5 of this Act with relation to health, written statement of employment and proof of age, and shall be acknowledged and returned to the superintendent of schools by employers within the same period and under the same penalties as regular employment certificates.

§ 6. All employment certificates shall be issued in triplicate, one of which shall be forwarded by mail by the issuing officer to the prospective employer of the minor for whom the employment certificate is issued, and another of which shall be forwarded to the properly authorized officer of the Department of Labor, and a third, or the facts contained on it, shall be filed in the issuing office.

Whenever an employment certificate shall be refused to a minor, the name and present address of such minor, and the school record issued to such minor, shall be forwarded by the official refusing to issue the certificate to the principal of the school which such minor should attend, or to the compulsory attendance or truant officer.

In any prosecution for a violation of this Act, the employment certificate shall be admissible as prima facie evidence of the facts set forth therein.

Any explanatory matter may be printed upon such certificate in the discretion of the board of education or other local school authority.

The employment certificate shall be signed by the officer duly authorized by the board of education or other local school authority and by the minor and shall be in the following form:

The office of.....(City) ..... (State).....

EMPLOYMENT CERTIFICATE.

This certifies that I have made a careful examination of all proofs, documentary and otherwise, required by Section 5 of an Act

entitled, "An Act concerning child labor and to repeal an Act entitled 'An Act to regulate the employment of children in the State of Illinois and to provide for the enforcement thereof,' approved May 15, 1903, as amended, for.....(name of minor), and find the following:

(a) That the above named minor can read and write legibly simple sentences in the English language and has completed the work of the.....grade in the.....
.....schools, and that he had attended school at least 130 days during the year previous to this date, or between his thirteenth and fourteenth birthdays.

(b) That the above named minor is physically fit to do the work specified in the statement submitted in accordance with the requirements of Section 5 of the aforesaid Act; and that his height is (feet and inches).....weight.....,
complexion (fair or dark).....,
hair (color).....

(c) That he or she was born at (city, state or country).....,
on the.....day of.....19....., as shown by.....

(d) That (name of employer).....of (address)
.....has promised the said minor present employment at (character of the work).....for.....
hours per day and.....days per week.

Officer duly authorized by the superintendent of the board of education (or other local school authority) of.....
(city), to issue employment certificates.

This certificate belongs to the board of education, (or other local school authority) and is to be returned to this office within three days after (name of minor) leaves the service of the employer holding the same.

§ 6a. The person authorized to issue employment certificates may, upon the application in person of any minor over the age of sixteen years, and upon presentation of evidence of age as required for minor under the age of sixteen in Section 5 of this Act, issue a certificate of age for minor over the age of sixteen. The certificate of age for minor over the age of sixteen years shall be in the following form and shall bear on the face the signature of the minor to whom it is issued, affixed in the presence of the issuing officer.

CERTIFICATE OF AGE FOR MINOR OVER 16 YEARS.

(Issued on the evidence of age as required by Illinois Child Labor Law).

Office of the Employment Certificate Bureau

This certifies that.....living at.....
is more than sixteen years of age, having been born at.....
.....on.....as shown by
(Date)

..... Complexion..... Hair

(Kind of evidence of age)

.....Eyes.....

.....

(Date)

.....

(Signature of minor affixed in presence of issuing officer)

.....

(Signature of authorized issuing officer)

TO THE EMPLOYER.

Do not destroy this card. It belongs to the minor to whom it is issued.

Return it to him when he leaves your service.

§ 7. It shall be the duty of every person who shall employ any minor under the age of sixteen years to acknowledge, in writing, to the official issuing the same, the receipt of the employment certificate, within three days after the beginning of such employment. On termination of the employment of a minor under the age of sixteen years, the employment certificate issued to such minor shall be returned by mail, by the employer to the official issuing the same, immediately on the demand of the minor for whom the certificate was issued, or otherwise, within three days after the termination of said employment. The official to whom the certificate is so returned shall file said certificate, and notify the compulsory attendance or truant officer. Any minor whose certificate has been returned as above provided, shall be entitled to a new employment certificate upon presentation of a statement from a prospective employer, as hereinabove provided, accompanied by a certificate of physical fitness issued in a manner as hereinabove provided and based upon a re-examination of the minor, and certifying that the minor is physically fit to undertake the work specified in the statement submitted in accordance with the requirements of Section 5 of this Act.

§ 8. The Department of Labor, through its authorized officers or employes, shall visit all theatres, concert halls or places of amusement, all mercantile institutions, stores, offices, hotels, laundries, manufacturing establishments, mills, canneries, factories or workshops, and all other places where minors are or may be employed, in this State, and ascertain whether any minors are employed contrary to the provisions of this Act. Such officers and employes may require that employment certificates, and all lists of minors employed in, or for or in connection with such theatres, concert halls or places of amusement, and such mercantile institutions, stores, offices, hotels, laundries, manufacturing establishments, mills, canneries, factories or workshops and all other places where minors are employed as provided for in this Act, shall be produced for their inspection on demand.

And provided, that upon written complaint to the school board or other local school authorities of any city, town, district, or municipality, that any minor (whose name shall be given in such complaint) is employed in, or for or in connection with, any theatre, concert hall or place of amusement, or any mercantile institution, store, office, hotel, laundry, manufacturing establishment, mill, cannery, factory or workshop, contrary to the provisions of this Act, it shall be the duty of such

school board or other local school authorities, to report the same to the Department of Labor.

§ 9. No person under the age of sixteen years shall be employed or suffered or permitted to work at any gainful occupation more than six days in any one week, nor more than eight hours in any one day; or before the hours of seven o'clock in the morning, or after the hour of seven o'clock in the evening. Every employer shall post in a conspicuous place in every room where such minors are employed, a printed notice stating the hours required of them each day of the week, the hours of commencing and stopping work, and the hours when the time or times allowed for dinner or for other meals, begins and ends. The printed form of such notice shall be furnished by the Department of Labor, and the employment of any such minor for longer time in any day so stated, or more than six days in any one week, shall be deemed a violation of this section.

§ 10. No minors under the age of sixteen years shall be employed at sewing belts, in any capacity whatever; nor shall any minors adjust any belt to any machinery; they shall not oil or assist in oiling, wiping or cleaning any machinery; they shall not operate or assist in operating circular or band-saws, wood-shapers, wood-joiners, planers, sandpaper or wood polishing machinery, emery or polishing wheels used for polishing metal, wood-turning or boring machinery, stamping machines in sheet-metal and tinware manufacturing, stamping machines in washer and nut factories, corrugating rolls, such as are used in roofing factories, nor shall they be employed in operating or assisting to operate any passenger or freight elevator, steam-boiler, steam machinery or other steam generating apparatus; they shall not operate or assist in operating dough breaker or cracker machinery of any description; wire or iron straightening machinery; nor shall they operate or assist in operating rolling mill machinery; punches or shears, washing, grinding or mixing mill or calendar rolls in rubber manufacturing, nor shall they operate or assist in operating laundry machinery; nor shall minors under the age of sixteen years be employed in any mine or quarry; nor shall they be employed in any capacity in preparing any composition in which dangerous or poisonous acids are used, and they shall not be employed in any capacity in the manufacture of paints, colors or white lead; nor shall they be employed in any capacity whatever in any employment that the Department of Labor finds to be dangerous to their lives or limbs, or where their health may be injured or morals depraved; nor in any bowling alley, nor in any theatre, concert hall or place of amusement wherein intoxicating liquors are sold; nor shall any females under the age of sixteen years be employed in any capacity where such employment requires them to remain standing for and during the performance of their work.

§ 11. The presence of any minor under the age of sixteen years in any manufacturing establishment, factory or workshop, or in any other place in which such minor is by this Act prohibited from working shall constitute prima facie evidence of his or her employment therein.

§ 12. It shall be the special duty of the Department of Labor to enforce the provisions of this Act, and to prosecute all violations of

the same before any magistrate or any court of competent jurisdiction in this State. It shall be the duty of the authorized officers and employees of the Department of Labor, and they are hereby authorized and empowered, to visit and inspect, at all reasonable times and as often as possible, all places covered by this Act. Truant officers and other school officials authorized by the board of education or school directors may enter any place in which children are, or are believed to be employed and inspect the work certificates on file. It shall be the duty of such truant officers or other school officials to file complaints against any employer found violating the provisions of this Act.

§ 13. Whoever having under his control a minor under the age of sixteen years, permits such minor to be employed in violation of the provisions of this Act, shall for each offense be fined not less than $5.00 nor more than $25.00, and shall stand committed until such fine and costs are paid.

Every person authorized to sign any of the certificates prescribed by Section 5 and Section 6 of this Act, who certifies to any materially false statement therein, shall be guilty of a violation of this Act, and upon conviction thereof, shall be fined not less than $5.00, nor more than $100.00 for each offense, and shall stand committed until such fine and costs are paid.

A failure to produce to the authorized officers or employees of the Department of Labor, or to the school attendance officers, any employment certificate or list required by this Act, shall constitute a violation of this Act.

Any person, firm or corporation, agent, or manager, superintendent or foreman of any firm or corporation, whether for himself or for such firm or corporation, or by himself or through sub-agents, or managers, superintendents or foreman, who shall violate or fail to comply with any of the provisions of this Act, or shall refuse admittance to premises or otherwise obstruct the officers or employees of the Department of Labor, in the performance of their duties as prescribed by this Act, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than $5.00 nor more than $200.00 for each offense, and shall stand committed until such fine and costs are paid.

Provided that in the employment of a minor shall not be deemed a violation of this Act in-so-far as the employer is concerned, if, immediately prior to the employment of said minor, the employer shall have been presented with or shall have obtained the duly attested over age certificate issued in accordance with Section 6 of this Act to the said minor.

§ 14. No provision of this Act shall be construed to prevent any minor over the age of fourteen years, who shall not have completed the educational requirements prescribed by this Act, but, who on July 1, 1929, shall be lawfully employed by any person, firm or corporation, from continuing in employment without complying with said educational requirements, *and provided further* that no minor under the age of fourteen years shall be allowed to work more than eight hours in any one day, nor more than six days in any one week: *Provided*

that nothing in this section shall be construed to prevent any minor under the age of fourteen years from doing voluntary work of a temporary and harmless character, for compensation, when school is not in session, with the consent of parent or guardian, nor shall any provision of this Act be construed to prevent the board of education or school directors of any school district from substituting vocational education under its supervision for academic education.

§ 15. The invalidity of any portion of this Act shall in no way effect the validity of any other portion thereof which can be given effect without such invalid part.

APPROVED June 17, 1929.

RACE DISCRIMINATION PROHIBITED

(Ill. Rev. Stat. Ch. 29, Pars. 17-24)

DISCRIMINATION OR INTIMIDATION.

(HOUSE BILL No. 856. APPROVED JULY 8, 1933.)

AN ACT *to prohibit discrimination and intimidation on account of race or color in employment under contracts for public buildings or public works.*

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

SECTION 1. No person shall be refused or denied employment in any capacity on the ground of race or color, nor be discriminated against in any manner by reason thereof, in connection with the contracting for or the performance of any work or service of any kind, by, for, on behalf of, or for the benefit of this State, or of any department, bureau, commission, board, or other political subdivision or agency thereof.

§ 2. The provisions of this Act shall automatically enter into and become a part of each and every contract or other agreement hereafter entered into by, with, for, on behalf of, or for the benefit of this State, or of any department, bureau, commission, board, other political subdivision or agency, officer or agent thereof, providing for or relating to the performance of any of the said work or services or of any part thereof.

§ 3. The provisions of this Act also shall apply to all contracts entered into by or on behalf of all independent contractors, subcontractors, and any and all other persons, association or corporations, providing for or relating to the doing of any of the said work or the performance of any of the said services, or any part thereof.

§ 4. No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work for the benefit of the State or for

any department, bureau, commission, board, other political subdivision or agency, officer or agent thereof, on account of race or color; and there may be deducted from the amount payable to the contractor by the State of Illinois or by any municipal corporation thereof, under this contract, a penalty of five dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of this Act.

§ 5. Any person who or any agency, corporation or association which shall violate any of the provisions of the foregoing sections, or who or which shall aid, abet, incite or otherwise participate in the violation of any of the said provisions, whether the said violation or participation therein shall occur through action in a private, in a public, or in any official capacity, shall be liable to a penalty of not less than one hundred nor more than five hundred dollars for each and every said violation or participation therein with respect to each person aggrieved thereby, to be recovered by each such aggrieved person, or by any other person to whom such aggrieved person shall assign his cause of action, in any court of competent jurisdiction in the county in which the plaintiff or the defendant shall reside.

§ 6. Any person who or any agency, corporation or association which shall violate any of the provisions of the foregoing sections, or who or which shall aid, abet, incite or otherwise participate in the violation of any of the said provisions, whether the said violation or participation therein shall occur through action in a private, in a public, or in any official capacity, shall also be deemed guilty of a misdemeanor for each and every said violation or participation and on conviction thereof, shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or, in the case of non-corporate violators, or participators, by imprisonment for not less than thirty nor more than ninety days, or by both such fine and imprisonment.

§ 7. The provisions of this Act shall be printed or otherwise inscribed on the face of each contract to which it shall be applicable, but their absence therefrom shall in no wise prevent or affect the application of the said provisions to the said contract.

§ 8. The invalidity or unconstitutionality of any one or more provisions, parts, or sections of this Act shall not be held or construed to invalidate the whole or any other provision, part, or section thereof, it being intended that this Act shall be sustained and enforced to the fullest extent possible and that it shall be construed as liberally as possible to prevent refusals, denials, and discriminations of andwith reference to the award of contracts and employment thereunder, on the ground of race or color.

Approved July 8, 1933.

DISCRIMINATION ON ACCOUNT OF RACE, CREED, ETC.

(Ill. Rev. Stat. Ch. 29, Pars. 24a-24g)

AN ACT *concerning discrimination on account of race, color or creed in the training and employment of persons, firms or corporations engaged in the performance of war defense contracts of the State or Federal Government and providing penalties therefor.*

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

SECTION 1. In the construction of this act the public policy of the State of Illinois is hereby declared as follows: To facilitate the rearmament and defense program of the Federal government by the integration into the war defense industries of the State of Illinois all available types of labor, skilled, semi-skilled and common shall participate without discrimination as to race, color or creed whatsoever.

§ 2. Every person, firm, association or corporation and the subcontractor, agent, or employee of the same to whom has been awarded a contract and to whom shall be awarded a contract by the United States government or any agency thereof and every person, firm, association or corporation which has been authorized or directed or is engaged in the training of persons for skilled or semi-skilled positions of labor for the United States government or any agency thereof and every subcontractor of any such person, firm, association, or corporation is designated in this act a war defense contractor.

§ 3. It shall be unlawful for any war defense contractor, its officers or agents or employees to discriminate against any citizen of the State of Illinois because of his race or color in the hiring of employees and training for skilled or semi-skilled employment, and every such discrimination shall be deemed a violation of this act.

§ 4. Upon the filing of a verified complaint, setting out the facts of the alleged discrimination in the office of the Department of Labor of the State of Illinois, and the state's attorneys of the respective counties of the State of Illinois and the attorney general of Illinois on the relation of the State of Illinois, it shall be the duty of said respective officers or their assistants to enforce the prosecution of any violation of this act.

§ 5. Any war defense contractor, its officers, agents or employees who shall violate any provisions of this act shall, upon conviction thereof, be fined in a sum not less than one hundred dollars nor more than five hundred dollars in any court of competent jurisdiction in the county in which the defendant shall reside.

§ 6. A copy of this act shall be furnished by the Department of Labor and shall be prominently displayed by each war defense contractor in its employment office and room where applicants for employment or training are interviewed. This shall be done by such war defense contractor within thirty days after the effective date of this

Act and any violation of this section shall be deemed a misdemeanor punishable by a fine in the sum of twenty-five dollars.

§ 7. WHEREAS, each day a national defense emergency exists, persons of health, ability and skill are hourly being deprived of training and employment solely because of discrimination of color, race and creed. The penalty set out in paragraph six shall be a separate offense for each day and the offender shall be fined for each day's violation separately.

APPROVED July 21, 1941.

INDUSTRIAL HOME WORK

(Ill. Rev. Stat. Ch. 48, Pars. 251-260)

AN ACT *to revise the law regulating industrial home work.*

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

SECTION 1. Unless the context otherwise requires, the words and phrases herein defined are used in this Act in the sense given them in the following definitions:

(1) The phrase "industrial home work" means the processing in a home or any part of a home of any article or articles, the material for which has been furnished by an employer, except any article or articles which are being processed solely for the consumption, wearing or use of persons residing in the home where the work is performed.

(2) The phrase "to process" means to manufacture, finish, repair, prepare, or handle, any material or objects in whole or in part.

(3) The word "employer" means any person who distributes materials or objects, directly or indirectly to a home for the purpose of having such materials or objects processed and thereafter returned to him; such processed materials or objects not intended for his personal use or any member of his family.

(4) The word "home" means any building or part of any building where a person regularly resides.

(5) The phrase "industrial home worker" means a person employed in industrial home work.

(6) The word "effective," when applied to a permit, certificate or license means that the permit, certificate or license has not been revoked or suspended, and is applicable to the industrial home work performed.

(7) The word "Department" means the Department of Labor.

§ 2. The following kinds of industrial home work are hereby prohibited:

A. The processing of articles of food or drink.

B. The processing of drugs or poisons.

C. The processing and preparation of medical and surgical bandages and dressings, sanitary napkins, and cotton batting.

D. The processing of fireworks, explosives and articles of similar character.

E. The processing and preparation of toys and dolls.

F. The processing and preparation of tobacco.

§ 3. The Department is charged with the duty of enforcing the provisions of this Act, and may make, promulgate and enforce such reasonable rules and regulations relating to the administration and enforcement of the provisions of this Act as may be deemed expedient. The violation of any rule or regulation so prescribed shall be punished by revocation or suspension of any permit, certificate or license issued under this Act, all such penalties to be imposed only after due notice and opportunity to be heard.

While engaged in the enforcement of the provisions of this Act the agents and employees of the Department are empowered and authorized to enter any home, house, dwelling, tenement, factory, shop or other building and to examine all records, books and registers that may be required to be kept, by the provisions of this Act.

§ 4. Before any premises may be used for the purposes of industrial home work the owner of the said premises shall file with the Department, in the prescribed form, an application for a Sanitary Permit for which no charge shall be made; upon receiving such application, the Department shall make an inspection of the premises to determine if the following conditions are satisfied:

1. There shall be for each person employed not less than 40 square feet of floor space and not less than 300 feet of cubic air space.

2. The ventilation of the workrooms of every kind and description shall provide a supply of not less than 2,000 cubic feet of fresh outside air for each person in each hour that such workroom is so occupied.

3. Every such workroom shall be heated during the winter months or at such other times as such heating may be necessary to a temperature not less than 70°F., and this temperature shall be maintained while such workroom is occupied.

4. That no building or part thereof shall be used as a workroom when the floors and walls of such building or part thereof are continuously damp or when such building or part thereof is permeated by noxious gases or exhalations, which may be detrimental to health.

5. No building or part thereof shall be used as a workroom unless properly lighted during working hours, so that those working therein shall not be subjected to eyestrain at any time during said working hours.

If the Department finds that such conditions are satisfied it shall issue to said owner a permit, valid for one year unless sooner revoked or suspended for cause, by the Department.

§ 5. Any person desiring to perform any work or labor as an Industrial Home Worker, in his own home, shall file with the Department, in the prescribed form, an application for a certificate, for which no charge shall be made. To every such applicant the Department shall issue an Industrial Home Worker's certificate, valid only

for work by the applicant in his own home and for one year unless sooner revoked or suspended, for cause, by the Department. No such certificate shall be issued if the applicant has an infectious, contagious or communicable disease or is less than sixteen (16) years of age.

§ 6. Any person desiring to become an employer of one or more Industrial Home Workers shall, whether or not he has a place of business in this State, file with the Department, in the prescribed form an application for an Employer's Permit. Such application shall be accompanied with a fee of $200.00 for the original issuance of an employer's permit.

For each annual renewal of such permit, the employer or representative contractor shall pay to the Director a fee of

(a) Fifty dollars, where at no time during the preceding calendar year did the employer or representative contractor directly or indirectly have business relations simultaneously with more than one hundred homeworkers;

(b) One hundred dollars, where at any time during the preceding calendar year the employer or representative contractor directly or indirectly had business relations simultaneously with more than one hundred but less than three hundred homeworkers.

(c) Two hundred dollars, where at any time during the preceding calendar year the employer or representative contractor directly or indirectly had business relations simultaneously with three hundred or more homeworkers.

Upon receiving the application accompanied by the proper fee the Department shall issue to such applicant an Employer's Permit limited to a specified industry or trade and valid for one year unless sooner revoked or suspended for cause, by the Department.

§ 7. Every holder of a Sanitary Permit shall keep an accurate register of all persons engaged in Industrial Home Work on his premises.

Every holder of an Employer's Permit shall, every six months, submit to the Department a report consisting of the names and addresses of all Industrial Home Worker's whom he is employing.

§ 8. No person shall carry on Industrial Home Work in a home, other than a resident therein.

No person shall engage in Industrial Home Work without first complying with the provisions of this Act.

No person shall engage himself as an employer of Industrial Home Workers without first complying with the provisions of this Act.

No employer shall at any time employ in Industrial Home Work a greater number of workers than that prescribed in such Employer's Permit.

§ 9. Any person who violates any of the provisions of this Act, or who obstructs or interferes with any examination or investigation being made by the Department shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than ten dollars ($10.00) nor more than five hundred dollars ($500.00). Each day that such violation continues shall be regarded as a separate and distinct offense.

§ 10. "An Act to regulate the manufacture of clothing, wearing apparel and other articles in this State, and to provide for the appointment of State inspectors to enforce the same and to make an appropriation therefor," approved June 17, 1893, as amended, is repealed.

FILED July 13, 1937.

PREFERENCE IN EMPLOYMENT TO CITIZENS OF THE UNITED STATES

(Ill. Rev. Stat. Ch. 48, Pars. 269-275)

AN ACT *to give preference in the construction of public works projects and improvements to citizens of the United States who have resided in Illinois for one year.*

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

SECTION 1. A person shall be deemed to be an Illinois laborer if he is a citizen of the United States or has received his first naturalization papers and has resided in Illinois for at least one year immediately preceding his employment.

§ 2. Laborers on public works projects shall include all labor, whether skilled, semi-skilled or unskilled, and whether manual or non-manual.

§ 3. Every person who is charged with the duty, either by law or contract, of constructing or building any public works project or improvement for the State of Illinois or any political subdivision, municipal corporation or other governmental unit thereof shall employ only Illinois laborers on such project or improvement, and every contract let by any such person shall contain a provision requiring that such labor be used: *Provided*, that other laborers may be used when Illinois laborers as defined in this Act are not available, or are incapable of performing the particular type of work involved, if so certified by the contractor and approved by the contracting officer.

§ 4. Every contractor on a public works project or improvement in this State may place on such work not to exceed three (3) of his regularly employed non-resident executive and technical experts, even though they do not qualify as Illinois laborers as defined in this Act.

§ 5. In all contracts involving the expenditure of federal aid funds this Act shall not be enforced in such manner as to conflict with any federal statutes or rules and regulations.

§ 6. Any person who fails to use Illinois laborers as required in this Act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed one hundred dollars, or by imprisonment in the county jail for not to exceed thirty days.

Each separate case of failure to use Illinois laborers on such public works projects or improvements shall constitute a separate offense.

§ 7. This Act shall be enforced by the Department of Labor.

FILED July 26, 1939.

STRIKES OR LOCKOUTS

(Ill. Rev. Stat. Ch. 48, Pars. 2C, 2D)

§ 1. Advertisement for help to state strike or lockout in progress. § 2. Penalty.

AN ACT *to require employers in advertising for employees during a strike or lockout to state in such advertising that such strike or lockout exists.*

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

SECTION 1. No employer shall advertise seeking to hire employees to replace employees on strike or locked out during any period when a strike or lockout is in progress, which strike or lockout has arisen out of a dispute between the management of the business and persons employed by such management at the time of such dispute who strike or are locked out as the result of failure in settling such dispute, unless it shall be stated in such advertisement that a strike or lockout is in progress at such place of business.

§ 2. Any person violating the provisions of this Act shall, upon conviction, be fined not less than one hundred dollars ($100.00) nor more than three hundred dollars ($300.00) for each such violation. Each day such advertising appears shall be deemed a separate offense.

APPROVED July 16, 1941.

WAR LABOR STANDARDS ADVISORY BOARD

(Ill. Rev. Stat. Ch. 127, Pars. 44b-44d)

§ 1. Creation of Board—Members—Duties. § 2. Quorum. § 3. Compensation of members.

(HOUSE BILL NO. 532. APPROVED JULY 16, 1943.)

AN ACT *creating the War Labor Standards Advisory Board in the Department of Labor.*

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

SECTION 1. There is created in the Department of Labor the War Labor Standards Advisory Board, hereinafter called the Board, consisting of four representatives of employee groups and four representatives of employer groups appointed by the Director of Labor, at least one of whom shall be a woman, and the Director of Labor, who shall act as chairman. The Board shall advise and cooperate with the Director of Labor in formulating policies or rules and regulations and the handling of requests and complaints in reference to the issuance of wartime emergency permits under the provisions of the following Acts: "An Act concerning the hours of employment of females in

certain occupations," approved June 15, 1909, as amended and "An Act to promote the public health and comfort of persons employed by providing for one day of rest in seven," approved July 8, 1935, as amended, and shall make reports of recommendations in connection therewith, to the Director of Labor.

§ 2. At any meeting of the Board, of which all members have had reasonable notice, six members thereof shall constitute a quorum and may make decisions for the Board.

§ 3. Members shall be paid no salary for their services, but may be reimbursed for their expenses in connection with attendance at Board meetings and any investigations, made at the direction of the Director of Labor.

APPROVED July 16, 1943.