

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

STATE OF MAINE

ENACTED BY THE

Seventy-Seventh Legislature

1915

Published by the Secretary of State.

AUGUSTA

KENNEBEC JOURNAL PRINT

1915

PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the Seventy-Seventh Legislature

1915

[supplied from page 1 of volume]

Chapter 294.

CHAP. 294

An Act to Amend Section Four of Chapter Seventy-three of the Revised Statutes, Relating to Notices upon Petitions for Sale of Real Estate.

Be it enacted by the People of the State of Maine, as follows:

Section four of chapter seventy-three of the Revised Statutes is hereby amended by inserting after the word "State" in the fifth line of said section, the following words: 'or the real estate is situated in a county other than the county in which the proceedings are pending,' so that said section as amended shall read as follows:

Ch. 73, Sec.
4, R. S.,
amended.

'Section 4. No license shall be granted for the sale of any real estate, of the value of more than fifty dollars, unless by written consent of all persons interested therein, until after public or personal notice of the time and place of hearing, to all such persons, to appear and object if they see cause. If any party interested resides without the State, or the real estate is situated in a county other than the county in which the proceedings are pending, such special notice may be given as the court directs.'

Notice shall
be given
before
granting
license.

—special
notice.

Approved April 1, 1915.

Chapter 295.

An Act Relative to Compensation to Employees for Personal Injuries Received in the Course of Their Employment and to the Prevention of Such Injuries.

Be it enacted by the People of the State of Maine, as follows:

Section I. The following words and phrases as used in this act shall, unless a different meaning is plainly required by the context, have the following meaning:

Words and
phrases de-
fined.

I. "Employer" shall include corporations, partnerships, natural persons, the State, counties, water districts and all other quasi municipal corporations of a similar nature, cities and also such towns as vote to accept the provisions of this act, and if employer is insured, it includes the insurer unless the contrary intent is apparent from the context or it is inconsistent with the purposes of this act.

—employer.

II. "Employee" shall include every person in the service of another under any contract of hire, express or implied, oral or written, except: (a) farm laborers; (b) domestic servants; (c) masters of and seamen on vessels engaged in interstate or foreign commerce; (d) person whose employment is but casual, or is not in the usual course of the trade, business, profession or occupation of his employer; (e) officials of the State, coun-

—employee.

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ties, cities, towns or water districts and other quasi municipal corporations of a similar character. Policemen and firemen shall be deemed employees within the meaning of this act. If, however, any policeman or fireman claims compensation under this act, there shall be deducted from such compensation any sum which such policeman, fireman or other person may be entitled to receive for any pension or other benefit fund to which the State or municipal body may contribute. Any reference to an employee who has been injured shall, when the employee is dead, also include his legal representatives, dependents and other persons to whom compensation may be payable.

—exception.

—assenting employer.

III. "Assenting employer" shall include all employers who have complied with the provisions of section six hereof, and to whom a certificate authorized by said section has been issued, but only so long as such certificate remains in force.

—commissioner.

IV. "Commissioner" shall mean the Commissioner of Labor and Industry of the State of Maine. "Commission" shall mean the Industrial Accident Commission created by section twenty-nine hereof.

—Industrial Accident Insurance Policy.

V. "Industrial Accident Insurance Policy" shall mean a policy in such form as the Insurance Commissioner of the State of Maine approves, issued by any stock or mutual casualty insurance company that may be now or hereafter authorized to do business in this State, which in substance and effect guarantees the payment of the compensation, medical and hospital services, and expense of sickness and burial herein provided for, in such installments, at such time or times, and to such person or persons and upon such conditions as in this act provided. Whenever a policy or certificate of renewal thereof is filed as herein provided, a copy of such policy certified by the Insurance Commissioner of the State of Maine or his deputy, shall be admissible as evidence in any legal proceeding wherein the original would be admissible.

—Insurance Company.

VI. "Insurance Company" shall mean any casualty insurance company authorized to do business in the State of Maine, which may issue policies conforming to the provisions of the paragraph next preceding. Whenever in this act relating to procedure the word "Insurance Company" is used, it shall be held to apply only to cases in which the employer has elected to file such policy, instead of furnishing satisfactory proof of his ability to pay compensations and benefits hereinafter provided direct to his employees.

—Representatives.

VII. "Representatives" may include executors, administrators, and the dependents of deceased employees. Payments

may be made to dependents directly, or to executors, or administrators. If payments are made to the latter, they shall forthwith pay the same to the dependents as the same are hereinafter defined.

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VIII. "Dependents" shall mean members of the employee's family or next of kin, who are wholly or partly dependent upon the earnings of the employee for support at the time of the injury. The following persons shall be conclusively presumed to be wholly dependent for support upon a deceased employee:

—Dependents.

(a) A wife upon a husband with whom she lives, or from whom she was living apart for a justifiable cause, or because he had deserted her or upon whom she is dependent at the time of the accident.

—wife upon husband.

(b) A husband upon a wife with whom he lives, or upon whom he is dependent at the time of the accident.

—husband upon wife.

(c) A child or children, including adopted and step-children under the age of eighteen years (or over said age, but physically or mentally incapacitated from earning) upon the parent with whom he is or they are living, or upon whom he is or they are dependent at the time of the death of said parent, there being no surviving dependent parent. In case there is more than one child thus dependent, the compensation shall be divided equally among them.

—children upon parent.

In all cases questions of entire or partial dependency shall be determined in accordance with the fact, as the fact may have been at the time of the injury. In such other cases, if there is more than one person wholly dependent the compensation shall be divided equally among them, and persons partly dependent, if any, shall receive no part thereof during the period in which compensation is paid to persons wholly dependent. If there is anyone wholly dependent and more than one person partly dependent, the compensation shall be divided among them according to the relative extent of their dependency. If a dependent is an alien residing outside of the United States, or of the Dominion of Canada, the compensation paid to any such dependent shall be one-half that hereinafter provided in case of the death of an employee.

—partial dependency.

IX. "Average weekly wages, earnings or salary," of an injured employee shall be computed as follows:

—average weekly wages, earnings or salary, how determined.

(a) If the injured employee has worked in the same employment in which he was working at the time of the accident, whether for the same employer or not, during substantially the whole of the year immediately preceding his injury, his "average weekly wages" shall be three hundred times the average

—where person has been employed for whole year preceding.

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daily wages, earnings or salary which he has earned in such employment during the days when so employed and working the number of hours constituting a full working day in such employment, divided by fifty-two. But where the employee is employed regularly during the ordinary working hours concurrently by two or more employers, for one of whom he works at one time and for another he works at another time, his "average weekly wages" shall be computed as if the wages, earnings or salary received by him from all such employers were wages, earnings or salary earned in the employment of the employer for whom he was working at the time of the accident.

—where person has been employed for less time.

(b) If the injured employee has not so worked in such employment during substantially the whole of such immediately preceding year, his "average weekly wages" shall be three hundred times the average weekly wages, earnings or salary which an employee of the same class working substantially the whole of such immediately preceding year in the same or a similar employment, in the same or a neighboring place, has earned in such employment during the days when so employed and working the number of hours constituting a full working day in such employment, divided by fifty-two.

—when previous weekly wages are considered.

(c) In cases where the foregoing methods of arriving at the "average weekly wages, earnings or salary" of the injured employee cannot reasonably and fairly be applied, such "average weekly wages" shall be taken at such sum as, having regard to the previous wages, earnings or salary of the injured employee and of other employees of the same or most similar class, working in the same or most similar employment in the same or a neighboring locality, shall reasonably represent the weekly earning capacity of the injured employee at the time of the accident in the employment in which he was working at such time.

—expense accounts not part of wages.

(d) Where the employer has been accustomed to pay to the employee a sum to cover any special expense incurred by said employee by the nature of his employment, the sum so paid shall not be reckoned as part of the employee's wages, earnings or salary.

—previous compensation for injury does not preclude compensation for later injury.

(e) The fact that an employee has suffered a previous injury or received compensation therefor, shall not preclude compensation for a later injury or for death; but in determining the compensation for the later injury or death, his "average weekly wages" shall be such sum as will reasonably represent his weekly earning capacity at the time of the later injury, in the employment in which he was working at such time, and

shall be arrived at according to and subject to the limitations of the previous provisions of this section.

In the sections of this act relating to notices and procedure, all powers and rights granted to, or duties and obligations imposed upon employers or employees, shall inure to the benefit of and may be exercised by guardians of minors or other incapacitated persons and the legal representatives of deceased persons.

Section 2. In an action to recover damages for personal injuries sustained by an employee in the course of his employment, or for death, resulting from personal injury so sustained it shall not be a defense (a) that the employee was negligent; (b) that the injury was caused by the negligence of a fellow employee; (c) that the employee had assumed the risk of the injury.

Section 3. The provisions of section two shall not apply to employers who employ five or less workmen or operatives regularly in the same business, and in case of the employer being engaged in more than one kind of business, in one of which he employs five or more workmen or operatives regularly, and in another employs five or less workmen or operatives, the fact that he elects to become subject to the provisions of this act shall not bring him within the provisions of it as to any such business in which he employs five or less workmen or operatives, and at the time of electing to become subject to the provisions of this act, if engaged in more than one kind of business, he shall specify the business or businesses in which he is engaged and concerning which he desires to come under the provisions hereof.

Section 4. The provisions of this act shall not apply to actions to recover damages for personal injuries or for death resulting from personal injuries sustained by employees engaged in domestic service or agriculture, or in the work of cutting, hauling, rafting or driving logs.

Section 5. The provisions of section two shall not apply to actions to recover damages for personal injuries or for death resulting from personal injuries sustained by employees of an employer who has elected to become subject to this act in the manner provided in section six hereof. In the case of personal injury sustained by an employee in the course of his employment or of death resulting from personal injury so sustained, assenting employers shall be exempt from suits either at common law or under section nine, chapter eighty-nine, of the Revised Statutes, or chapter two hundred fifty-eight of the public laws of nineteen hundred nine.

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Guardians may exercise claims.

Shall not be a defense.

—negligence of self or fellow employees.

—employee assumed risk.

Section two shall not apply to employers who employ less than six operatives.

This act shall not apply to persons engaged in domestic service, agriculture or logging.

Section two shall not apply to assenting employers.

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Employer may become assenting employer.

Insurance Commissioner shall approve classifications of policies of insurance companies assuming risks.

—may withdraw approval.

Employer desiring to become an assenting employer shall file written assent with the Commission.

—shall deposit satisfactory security.

—proviso.

Commissioner shall issue certificate to employer.

Section 6. I. Any employer desiring to become an assenting employer as herein provided, may file with the Commission at its office in Augusta, his written assent in such form as the Commission approves and also file with said Commission a copy of an industrial accident insurance policy in any stock or mutual insurance company or association authorized to do business in the State of Maine, said policy being stamped with the approval of the Insurance Commissioner of said State of Maine.

Any insurance company issuing policies covering the payment of compensation provided for in this act shall file with the Insurance Commissioner a copy of the form thereof, and no such policy shall be issued until said Insurance Commissioner has approved the same. Every such insurance company shall file with the Insurance Department its classification of risks and premiums relating thereto, and any subsequent proposed classifications or premiums, none of which shall take effect until the Insurance Commissioner has approved the same as adequate for the risks to which they respectively apply. The Insurance Commissioner may withdraw his approval of any classification of risks or premium rates relating thereto, and he may at any time approve a revised classification of risks and premium rates relating thereto.

II. Any employer desiring to become an assenting employer as herein provided, may file with the Commission his written assent in such form as said commission approves, after furnishing satisfactory proof to the Commission of his solvency and financial ability to pay the compensation and benefits herein provided, and upon the deposit of cash, satisfactory securities or a bond, as the Commission may determine, such bond to run to the State Treasurer and his successor in office in such sum as said commission may determine and shall be conditional upon the faithful performance of all the provisions of this act relating to the payment of compensations and benefits to any injured employee. In case of cash being deposited it shall be placed at interest by the State Treasurer and the accumulation of interest on said cash or securities so deposited shall be paid to the employer depositing the same. Provided, however, that the Commission may at any time in their discretion deny to an assenting employer the right to continue in the exercise of the option granted by this paragraph.

III. Upon the filing of such assent and complying with the provisions of paragraphs I or II of this section, the Commissioner shall issue to such employer a certificate stating that such employer has conformed to the provisions of this act and setting forth the date on which the policy filed under paragraph

I expires. The certificate thus issued shall remain in full force until the date of the expiration of such policy, or until withdrawn as provided in paragraph II, or until the employer assenting under paragraph II shall notify the Commissioner that he withdraws his assent, or files an industrial accident policy in place of the securities so deposited by him.

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-certificate in full force, how long.

IV. Subject to the approval of the Commission any employer may continue with his employees in lieu of the compensation and insurance provided by this act the system of compensation, benefit or insurance which was used by such employer on the first day of January, A. D., nineteen hundred fifteen. No such substitute system shall be approved unless it confers benefits upon injured employees at least equivalent to the benefits provided by this act, nor if it requires contributions from the employees, unless it confers benefits in addition to those provided under this act at least commensurate with such contributions. Such substitute system may be terminated by the Commission on reasonable notice and hearing to the interested parties if it shall appear that the same is not fairly administered, or if its operation shall disclose latent defects threatening its solvency, or if for any substantial reason it fails to accomplish the purposes of this act. An employer who is authorized to substitute a plan under the provisions of this section shall give his employees notice thereof in a form to be prescribed by the Commission, and a statement of the plan approved shall be filed with the Commission.

Commission may approve system in use January 1, 1915.

-approval of substitute system.

-shall notify employees.

V. A notice in such form as the Commission approves, stating that the employer has conformed to the provisions of this act and the date of the expiration of the policy filed, together with such further matters as the Commission determines, shall be posted by the employer and kept posted by him at some place in each of his mills, factories or place of business, conspicuous and accessible to his employees. For wilful failure to post such notices, the employer shall be subject to a penalty of ten dollars per day for every day of such wilful neglect, to be recovered by complaint or indictment. Such failure to so post notices shall not, however, affect the rights or liabilities of the employer or the employee hereunder.

Notice shall be kept posted in place of business.

Penalty for failure to post notice.

Section 7. An employee of an employer who shall have elected to become subject to the provisions of this act as provided in section six of this act shall be held to have waived his right of action at common law to recover damages for personal injuries; also under section nine of chapter eighty-nine, Revised Statutes, or chapter two hundred fifty-eight of the Public Laws of nineteen hundred nine, if he shall not have given his em-

Employee subject to this act waives right of action at common law to recover damages for personal injuries.

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Employee desiring to come under provisions of this act shall give notice to employer.

-notice to claim right at common law.

Minor shall not come within provisions of this act.

-exception.

-may waive claim by notice. Injury or death caused by wilful intention shall not be compensated for.

-intoxication.

Employee shall be incapacitated.

ployer at the time of his contract of hire notice in writing that he claimed such right, and within ten days thereafter have filed a copy thereof with the Commission or, if the contract of hire was made before the employer so elected, if the employee shall not have given the said notice and filed the same with said commission within ten days after notice by the employer, as above provided, of such election, and such waiver shall continue in force for the term of one year, and thereafter without further act on his part, for successive terms of one year, each, unless such employee shall at least sixty days prior to the expiration of such first or any succeeding year, file with the said commissioner a notice in writing to the effect that he desires to claim his said right of action at common law and within ten days thereafter shall give notice thereof to his employer. A minor working at an age illegally permitted under the laws of this State shall be deemed sui juris for the purpose of this act and no other person shall have any cause of action or right to compensation for an injury to such minor employee except as expressly provided in this act; but if said minor shall have a parent living or a guardian, such parent or guardian, as the case may be, may give the notice and file a copy of the same as herein provided by this section, and such notice shall bind the minor in the same manner that adult employees are bound under the provisions of this act. In case no such notice is given, such minor shall be held to have waived his right of action at common law, or under the statutes above referred to, to recover damages for personal injuries. Any employee, or the parent or guardian of any minor employee, who has given notice to the employer that he claimed his right of action at common law, or under the statutes above referred to, may waive such claim by a notice in writing which shall take effect five days after the delivery to the employer or his agent.

Section 8. No compensation shall be allowed for the injury or death of an employee where it is proved that his injury or death was occasioned by his wilful intention to bring about the injury or death of himself or of another, or that the same resulted from his intoxication while on duty. This provision as to intoxication shall not apply, if the employer knew or in the exercise of ordinary care might have known that the employee was intoxicated or that he was in the habit of becoming intoxicated while on duty.

Section 9. No compensation except as provided by section ten of this act shall be paid under this act for any injury which

does not incapacitate the employee for a period of at least two weeks from earning full wages, but, if such incapacity extends beyond the period of two weeks, compensation shall begin on the fifteenth day after the injury.

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tated two weeks before being compensated.

Section 10. During the first two weeks after the injury the employer shall furnish reasonable medical and hospital services, and medicines when they are needed, but the amount of the charge for such services and medicines shall not exceed the sum of thirty dollars, unless in case of major surgical operations being required, and the employer and employee being unable to agree upon the same, the amount to be allowed for such medical services or medicines shall be fixed by the Commission upon petition by either party setting forth the facts.

Employer shall furnish medical aid during first two weeks.

Section 11. If an employee who has not given notice of his claim of common law or statutory rights or action, or who has given such notice and has waived the same, as provided in section seven of this act, receives a personal injury by accident arising out of and in the course of his employment, he shall be paid compensation as hereinafter provided, by the employer who shall have elected to become subject to the provisions of this act.

Action on injury of employee not having given notice.

Section 12. If death results from the injury, the employer shall pay the dependents of the employee wholly dependent upon his earnings for support at the time of his injury a weekly payment equal to one-half his average weekly wages, earnings, or salary, but not more than ten dollars nor less than four dollars a week, for a period of three hundred weeks from the date of the injury; provided, however, that if the dependent of the employee to whom the compensation shall be payable upon his death is the widow of such employee, upon her death the compensation thereafter payable under this act shall be paid to the child or children of the deceased employee, including adopted and step-children, under the age of eighteen years, or over said age but physically or mentally incapacitated from earning, are dependent upon the widow at the time of her death. In case there is more than one child thus dependent, the compensation shall be divided equally among them. If the employee leaves dependents only partly dependent upon his earnings for support at the time of his injury, the employer shall pay such dependents for a period of three hundred weeks from the date of the injury a weekly compensation equal to the same proportion of the weekly payments herein provided for the benefit of persons wholly dependent on the amount contributed annually by the employee to such partial dependents bears to the annual earnings of the deceased at the time of injury.

Employer's liability for death.

—proviso.

—compensation may be divided between children.

—partially dependents.

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Date compensation shall begin.

—proviso.

Compensation when employee has no dependents.

Compensation for total disability.

—total disability, how determined.

Compensation for partial disability.

Schedule of accidents, how provided for.

When weekly payments have been made to an injured employee before his death, the compensation to dependents shall begin from the date of the last of such payments, but shall not continue more than three hundred weeks from the date of the injury. Provided, however, that if the deceased leaves no dependents at the time of the injury, the employer shall not be liable to pay compensation under this act except as specifically provided in section thirteen of this act.

Section 13. If the employee dies as a result of the injury, leaving no dependents at the time of the injury, the employer shall pay, in addition to any compensation provided for in this act, the reasonable expense of his last sickness and burial, which shall not exceed two hundred dollars.

Section 14. While the incapacity for work resulting from the injury is total, the employer shall pay the injured employee a weekly compensation equal to one-half his average weekly wages, earnings or salary, but not more than ten dollars nor less than four dollars a week; and in no case shall the period covered by such compensation be greater than five hundred weeks from the date of the injury, nor the amount more than three thousand dollars. In the following cases it shall, for the purposes of this act, be conclusively presumed that the injury resulted in permanent total disability, to wit: The total and irrevocable loss of sight in both eyes, the loss of both feet at or above the ankle, the loss of both hands at or above the wrist, the loss of one hand and one foot, an injury to the spine resulting in permanent and complete paralysis of the legs or arms, and an injury to the skull resulting in incurable imbecility or insanity.

Section 15. While the incapacity for work resulting from the injury is partial, the employer shall pay the injured employee a weekly compensation equal to one-half the difference between his average weekly wages, earnings or salary, before the injury and the average weekly wages, earnings or salary which he is able to earn thereafter, but not more than ten dollars a week; and in no case shall the period covered by such compensation be greater than three hundred weeks from the date of the injury.

Section 16. In cases included in the following schedule the disability in each such case shall be deemed to be total for the period specified and after such specified period, if there be a partial incapacity for work resulting from the injury specified, the employee shall receive compensation while such partial incapacity continues under the provisions of section fifteen, but

in no case shall compensation continue more than three hundred weeks after the injury. The compensation to be paid for the injuries hereinafter specified shall be as follows, to wit: CHAP. 295

For the loss of a thumb, one-half the average weekly wages during fifty weeks. —thumb

For the loss of the first finger, commonly called the index finger, one-half the average weekly wages during thirty weeks. —index
finger.

For the loss of the second finger, one-half the average weekly wages during twenty-five weeks. —second
finger.

For the loss of the third finger, one-half the average weekly wages during eighteen weeks. —third
finger.

For the loss of the fourth finger, commonly called the little finger, one-half the average weekly wages during fifteen weeks. —fourth
finger.

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 said thumb or finger, and the compensation shall be one-half the amount above specified. The loss of more than one phalange shall be considered as a loss of the entire thumb or finger; provided, however, that in no case shall the amount received for the loss of more than one finger exceed the amount specified in this schedule for the loss of a hand. —first
phalange.

For the loss of the great toe, one-half the average weekly wages during twenty-five weeks. —great toe.

For the loss of one of the toes other than the great toe, one-half the average weekly wages during ten weeks. —smaller
toes.

The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of said toe and the compensation shall be one-half of the amount above specified. —first
phalange
of toe.

The loss of more than one phalange shall be considered as the loss of the entire toe.

For the loss of a hand, one-half the average weekly wages during one hundred twenty-five weeks. —hand.

For the loss of an arm, or any part above the wrist, one-half the average weekly wages during one hundred fifty weeks. —arm.

For the loss of a leg, or any part above the ankle, one-half the average weekly wages during one hundred fifty weeks. —leg.

For the loss of a foot, one-half the average weekly wages for one hundred twenty-five weeks. —foot.

For the loss of an eye or the reduction of the sight of an eye, with glasses, to one-tenth of the normal vision, one-half the average weekly wages during one hundred weeks. —eye.

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—maxi-
mum and
minimum
amounts.

Notice of
injury shall
be given
employer
within thir-
ty days.

The amounts specified in this section are all subject to the same limitations as to maximum and minimum amounts, that is, of not more than ten and not less than four dollars a week, as provided for total or partial disability.

Section 17. No proceedings for compensation for an injury under this act shall be maintained unless a notice of the accident shall have been given to the employer within thirty days after the happening thereof; and unless the claim for compensation with respect to such injury shall have been made within one year after the occurrence of the same, or, in case of his physical or mental incapacity, within one year after death or the removal of such physical or mental incapacity.

Section 18. Such notice shall be in writing and shall state in ordinary language the nature, time, place and cause of the injury, and the name and address of the person injured and shall be signed by the person injured, or by a person in his behalf, or, in the event of his death, by his legal representatives, or by a dependent, or by a person in behalf of either.

Section 19. Such notice shall be served upon the employer, or upon one employer, if there are more employers than one, or, if the employer is a corporation, upon any officer or agent upon whom process may be served, or by leaving it at his last known residence or place of business, or by sending it by registered mail addressed to the person to be served, or in the case of a corporation, to the corporation itself, at his or its last known residence or place of business; and such mailing of the notice shall constitute a completed service.

Section 20. A notice given under the provisions of this act shall not be held invalid or insufficient by reason of any inaccuracy in stating the nature, time, place or cause of the injury, or the name and address of the person injured, unless it is shown that it was the intention to mislead and the employer was in fact misled thereby. Want of notice shall not be a bar to proceedings under this act, if it be shown that the employer or his agent had knowledge of the injury, or that failure to give such notice was due to accident, mistake or unforeseen cause.

Employee
shall sub-
mit to ex-
amina-
tions by
physician.

—may fur-
nish phy-
sician.

Section 21. The employee shall after the injury, at all reasonable times during the continuance of his disability, if so requested by his employer, submit himself to an examination by a physician or surgeon authorized to practice medicine under the laws of this State, to be selected and paid for by the employer. The employee shall have the right to have a physician or surgeon selected and paid for by himself, present at such examination of which right the employer shall give him notice when requesting such examination.

The chairman of the Commission may at any time after the injury appoint a competent and impartial physician or surgeon to act as a medical examiner, and the reasonable fees of such medical examiner shall be fixed and paid by the Commission.

Such medical examiner being first duly sworn to the faithful performance of his duties before any justice of the peace, or any clerk of the Supreme Judicial court, shall thereupon and as often as the chairman of the Commission may direct, examine such injured employee in order to determine the nature, extent and probable duration of the injury. Such medical examiner shall file a report of every examination made of such employee in the office of the Commission, and a copy thereof certified by the clerk of said commission may be produced in evidence in any hearing or proceedings to determine the amount of compensation due said employee under the provisions of this act. If such employee refuses to submit himself to examination provided for in this act, or in any way obstructs any such examination, his rights to compensation shall be suspended and his compensation during such period of suspension may be forfeited.

Section 22. No savings or insurance of the injured employee independent of this act, shall be taken into consideration in determining the compensation to be paid hereunder, nor shall benefits derived from any other source than the employer be considered in fixing the compensation under this act.

Section 23. In case an injured employee is mentally incompetent, or, where death results from the injury, in case any of his dependents entitled to compensation hereunder are mentally incompetent or minors at the time when any right, privilege or election accrues to him or them under this act, his guardian, or next friend may, in his behalf, claim and exercise such right, privilege or election, and no limitation of time in this act provided shall run so long as such incompetent or minor has no guardian.

Section 24. No agreement by an employee, except as provided in section thirty, to waive his rights to compensation under this act shall be valid. No claims for compensation under this act shall be assignable, or subject to attachment, or liable in any way for debt.

Section 25. Employers who hire workmen within this State to work outside of the State, may agree with such workmen that the remedies under this act shall be exclusive as regards

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—appointment of impartial medical examiner.

Medical examiner under direction of the Commission.

—file report.

—compensation forfeited.

Savings or insurance shall not be taken into consideration.

Incompetents or minors may have guardian exercise right of claim.

Waiving rights to compensation valid.
—claims not assignable.

Out of State employment not under provisions of this act.

CHAP. 295 injuries received outside this State by accident arising out of and in the course of such employment; and all contracts of hiring in this State shall be presumed to include such an agreement.

Liability created in other person than employer.

Section 26. When any injury for which compensation is payable under this act shall have been sustained under circumstances creating in some other person than the employer a legal liability to pay damages in respect thereto, the injured employee may, at his option, either claim compensation under this act or obtain damages from or proceed at law against such other person to recover damages; and if compensation is claimed and awarded under this act, any employer having paid the compensation or having become liable therefor shall be subrogated to the rights of the injured employee to recover against that person, provided, if the employer shall recover from such other person damages in excess of the compensation already paid or awarded to be paid under this act, then any such excess shall be paid to the injured employee less the employer's expenses and costs of action.

—if employer recovers damage.

Claims under this act entitled to preference over unsecured debt.

Section 27. The claim for compensation under this act, and any decree on any such claim, shall be entitled to a preference over the unsecured debts of the employer hereafter contracted to the same amount as the wages of labor are now preferred by the laws of this State, but nothing herein shall be construed as impairing any lien which the employee may have acquired.

Payment of lump sum, when and how made.

Section 28. In case payments have continued for not less than six months either party may, upon due notice to the other party, petition the Commission for an order commuting the future payments to a lump sum. Such petition shall be considered by the Commission and may be summarily granted where it is shown to the satisfaction of the Commission that the payment of a lump sum in lieu of future weekly payments will be for the best interest of the person or persons receiving or dependent upon such compensation, or that the continuance of weekly payments will, as compared with lump sum payments, entail undue expense or undue hardship upon the employer liable therefor, or that the person entitled to compensation has removed or is about to remove from the United States. Where the commutation is ordered, the Commission shall fix the lump sum to be paid at 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 five per centum per annum with annual rests. Upon payment of such amount the employer shall be discharged from all further liability on account of the injury or death, and be entitled to

Commission shall fix lump sum.

—employer discharged from further liability.

a duly executed release, upon filing which, or other due proof of payment, the liability of such employer under any agreement, award, findings, or decree shall be discharged of record.

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Section 29. A commission is hereby created to be known as The Industrial Accident Commission of the State of Maine and it shall consist of three members. The Insurance Commissioner and the Commissioner of Labor and Industry shall be ex-officio members of this Commission. The Governor shall appoint a chairman of this Commission, who shall be learned in the law and a member of the bar in good standing and who shall hold office for three years from date of appointment and unless removed, as hereunder provided, shall hold office until his successor is appointed and qualified. Such chairman shall be sworn, and for inefficiency, wilful neglect of duty or for malfeasance in office, may after notice and hearing be removed from office by the Governor and Council. In case of vacancy occurring through death, resignation or removal, the Governor shall appoint a successor for the whole term of three years, subject to removal as aforesaid. Such chairman shall receive a salary of twenty-five hundred dollars per annum. The other members of the Commission shall receive a salary of five hundred dollars per annum in addition to compensation received by them under existing law. The members of the Commission shall also receive their actual necessary cash expenses while away from their office on official business.

Industrial Accident Commission of the State of Maine created.

—appointment of chairman.

—tenure of office.

—may be removed.

—appointment of successor.

—salary of chairman.

—salary of other members.

—expenses.

The Commission shall have a secretary appointed and removable by it, whose salary shall be fifteen hundred dollars per annum. It shall be allowed the sum of two thousand dollars, or so much thereof as is necessary, for expert and clerical assistance and other expenses in organizing a suitable system of administration. From and after January first, nineteen hundred sixteen, there shall be appropriated the sum of seven thousand five hundred dollars per annum, or such part thereof as is necessary, for clerical and other assistance, traveling expenses, physicians' and witness fees and other necessary expenses.

—secretary of Commission.

—appropriation for expenses.

The Commission shall have a seal bearing the words "Industrial Accident Commission of Maine." It shall have its office and keep its records in the State House in Augusta, but may hold sessions at any place within the State. The Commission shall have general supervision over the administration of this act and shall have the following powers:

—seal.

Powers of Commission.

I. To make rules and regulations not inconsistent with this act or other laws of the State for the purpose of carrying out the provision hereof.

—make rules and regulations.

CHAP. 295 II. To issue subpoenas for witnesses and subpoenas duces
 tecum to compel the production of books and papers relating
 to any questions in dispute before it.

—issue sub-
 poenas.

Chairman
 may issue
 subpoenas

III. The chairman of said commission at any hearing be-
 fore him under the provisions of this act, shall also have power
 to issue subpoenas for witnesses and subpoenas duces tecum
 to compel the production of books and papers relating to any
 matters in dispute before him. Witness fees in all proceed-
 ings under this act shall be the same as witnesses before Su-
 preme Judicial courts.

—witness
 fees.

Memoran-
 dum of
 agreement.

Section 30. If the employer and the employee reach an
 agreement in regard to compensation under this act a memo-
 randum of such agreement signed by the parties shall be filed
 in the office of the Commission. If the Commissioner finds that
 such agreement is in conformity with the provisions of this
 act, he shall approve the same and the clerk of the Commis-
 sion shall record it in a book kept for that purpose. In case
 the Commissioner shall find that any such agreement is not in
 conformity with the provisions of this act and shall refuse to
 approve the same, or if the employer and employee fail to reach
 an agreement in regard to compensation under this act, either
 employer or employee; and when death has resulted from the
 injury and the dependents of the deceased employee entitled
 to compensation are, or the apportionment thereof among them
 is in dispute, any person in interest, may file in the office of
 the Commission a petition setting forth the names and residences
 of the parties, the facts relating to the employment at the time
 of the injury, the cause, extent and character of the injury and
 the knowledge of the employer or notice of the occurrence of
 the injury, and, if an agreement had been reached between
 the parties which had not been approved by the Commissioner,
 the form of such agreement and such other facts as may be
 necessary and proper for the determination of the matter in
 dispute, and shall state the matter in dispute and the claims
 of the petitioner with reference thereto.

—failure
 to reach
 agreement.

—disputes,
 how settled

Dealing
 with peti-
 tions.

Section 31. Within four days after the filing of the petition,
 a copy thereof attested by the clerk of the Commission shall
 be mailed by said clerk, postage prepaid, to the other parties
 named in the petition, or notice be given in such other manner
 as the Commission may determine.

Section 32. Within ten days after the filing of such peti-
 tion, all the other parties interested in opposition to the petition
 shall file an answer to said petition and furnish a copy thereof
 to the petitioner, which answer shall state the claims of the
 opponents with reference to the matter in dispute as disclosed

—answer to
 petition.

by the petition. The chairman of said commission may grant further time for filing answer and allow amendments to said petition and answer at any stage of the proceedings. If any party opposing such petition does not file an answer within the time limited, the hearing shall proceed upon the petition. If any party be an infant or person under disability, either parent or a guardian, or a guardian ad litem for such infant or person under disability may file the petition or answer required by this section.

Section 33. The whole matter shall then be referred to the chairman of said commission, who shall fix a time for hearing upon the request of either party, upon a three days' notice given to the other party. All hearings shall be held in the town where the accident occurred, unless the claimant shall in writing request that it be held in some other place.

Section 34. If from the petition and answer there appear to be facts in dispute, the chairman of the Commission shall then hear such witnesses as may be presented by each party, or by agreement the claims of both parties as to the facts in dispute may be presented by affidavits. From the evidence thus furnished the chairman shall, in a summary manner, decide the merits of the controversy. His decision, together with a statement of the facts submitted, his findings of fact and rulings of law, and any other matters pertinent to the questions raised at the hearing, shall be filed in the office of the Commission, and a copy thereof certified by the clerk of the Commission mailed forthwith to all parties interested. His decision in the absence of fraud, upon all questions of fact shall be final.

Any party in interest may present copies certified by the clerk of said Commission of any order or decision of the Commission or of its chairman, or of any memorandum of agreements approved by the Commissioner, together with all papers in connection therewith, to the clerk of courts for the county in which the injury occurred; whereupon any justice of the Supreme Judicial court shall render a decree in accordance therewith and notify all the parties. Such decree shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though rendered in a suit in equity duly heard and determined by said court, except there shall be no appeal therefrom upon questions of fact found by said commission or its chairman, or where the decree is based upon a memorandum of agreement approved by the Commissioner. Upon any appeal therefrom the proceedings shall be the same as in appeals in equity procedure and the law court may, after consideration, reverse or modify any decree made by a justice,

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Chairman
may grant
time for
filing an-
swers.—failure
to file
answer.
Parent or
guardian
may file
petition.Chairman
shall fix
time for
hearing.—place of
hearing.Chairman
shall decide
merits of
contro-
versy.—decision
filed.—decision
final.Certified
copies of
order or de-
cision may
be present-
ed to clerk
of courts.—justice
may render
decree.

—exception.

—appeals.

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—court shall revoke or modify decree.

Agreement shall have same effect as judgment of court.

Agreement may from time to time be reviewed.

Action of chairman upon review.

based upon an erroneous ruling or finding of law. There shall be no appeal from a decree based upon any order or decision of the Commission or of its chairman, or upon any memorandum of agreement approved by the Commissioner, which has not been certified and presented to the court within ten days after the notice of the filing thereof by the Commission or its chairman. Upon the presentation to it of a certified copy of any decision of the chairman of the Commission terminating, diminishing, increasing or modifying any payments under the provisions of section thirty-six, or under any decision of said chairman or any agreement approved by the Commissioner the court shall revoke or modify its decree, if any has been based thereon, to conform to such decision.

Section 35. Any agreement between employer and employee filed with the Commission and approved by the Commissioner or any decision of the chairman of said Commission under the provisions of section thirty-four, shall have the same effect as the judgment of a court, and a copy thereof certified to by the clerk of said Commission and filed with the clerk of the court of the county in which either the employer or employee resides, or where the business of the employer is located, shall be enforceable by the Supreme Judicial court by any suitable process including execution against the goods, chattels and real estate, and including proceedings for contempt for wilful failure or neglect to obey the orders or decrees of the court, or in any other manner that decrees in equity may be enforced.

Section 36. At any time before the expiration of two years from the date of the approval of an agreement by the Commissioner, or the entry of a decree fixing compensation, but not afterwards, and before the expiration of the period for which compensation has been fixed by such agreement or decree, but not afterwards, any agreement, award, findings or decree may be from time to time reviewed by the chairman of said commission upon the application of either party, after due notice to the other party, upon the ground that the incapacity of the injured employee has subsequently ended, increased or diminished. Upon such review the said chairman may increase, diminish, or discontinue the compensation from the date of the application for review, in accordance with the facts, or make such other order as the justice of the case may require, but shall order no change of the status existing prior to the application for review. The finding of the said chairman upon such review shall be served on the parties and filed with the clerk of the Commission and may be certified to the court in

like time and manner and subject to like disposition as in the case of original decrees; provided that an agreement for compensation may be modified at any time by a subsequent agreement between the parties approved by the Commissioner in the same manner as original agreements in regard to compensation are required to be approved by the provisions of section thirty of this act.

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Section 37. The Commission may prescribe forms and make suitable orders as to procedure adapted to secure a speedy, efficient and inexpensive disposition of all proceedings under this act; and in interpreting this act it shall construe it liberally and with a view to carrying out its general purpose. The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this act.

Commission may prescribe forms and make suitable orders.

Section 38. No proceedings under this act shall abate because of the death of the petitioner, but may be prosecuted by his legal representative or by any person entitled to compensation by reason of said death, under the provisions of this act.

Proceedings shall not abate because of death.

Section 39. An employee's claim for compensation under this act shall be barred unless an agreement or a petition, as provided in section thirty shall be filed within two years after the occurrence of the injury, or, in case of the death of the employee, or in the event of his physical or mental incapacity, within two years after the death of the employee or the removal of such physical or mental incapacity.

Agreement or petition shall be made within two years.

Section 40. This act shall be compulsory as to the State, counties, cities, water districts and other quasi municipal corporations of a similar nature. The provisions of section six of this act shall not apply to the State, counties, cities, water districts and other quasi municipal corporations of a similar nature or to any towns voting to accept the provisions of this act.

Compulsory upon State, county, cities, etc. —exception.

Section 41. All assenting employers shall make prompt reports to the Commission of all accidents to their employees in the course of employment, with the average weekly wages or earnings of such employees, and together with such other particulars as the Commission may require and shall also report whenever the injured employee shall resume his employment and the amount of his wages or earnings.

Assenting employers shall make reports to Commission.

Whenever any final settlement is made with an injured employee, either by the employer or insurance company, a copy of the receipt or final agreement showing the total amount of money paid to such injured employee, shall be filed with the

—copy of receipt shall be filed with Commission.

CHAP. 295 Commission, but shall not be binding without the approval of the Commission or of its chairman. Any employer or insurance company that shall wilfully neglect or refuse to make such reports or file any receipts or agreements required to be filed under this act, shall be liable to a forfeiture of ten dollars for each day of such wilful neglect or refusal, to be enforced by the Commission in an action of debt in the name of the State. All sums so recovered shall be paid into the State Treasury and be credited to the appropriation made for the administration of this act.

—penalty for refusal to file receipt.

—fines paid into State Treasury.

—filling out of blank by insurance companies.

—penalty for refusal to fill out blanks.

Section 42. Any insurance company insuring employers under this act shall fill out any blanks and answer all questions submitted to them that may relate to policies, premiums, amount of compensations paid, and such other information as the Commission or the Insurance Commissioner may deem important, either for the proper administration of this act or for statistical purposes. Any insurance company which shall refuse to fill out such blanks or answer such questions shall be liable to a forfeiture of ten dollars for each day of such refusal, to be enforced by the Commission in an action of debt in the name of the State. All money so recovered shall be paid into the State Treasury and credited to the appropriation for the administration of this act.

Annual report of Commission.

Section 43. The Commission shall make an annual report giving full statistical information as may be contained in their department in relation to the administration of this act, particularly with reference to the number of employees effected, the number injured, the amount of compensations received and the cost of the same to the employers.

—effect upon persons engaged in commerce.

Section 44. This act shall effect the liability of employers to employees engaged in interstate or foreign commerce or otherwise only so far as the same is permissible under the laws of the United States.

Providing for monthly payment.

Section 45. If an employee receiving a weekly payment under this act shall cease to reside in the State, or, if his residence at the time of the accident is in an adjoining state, the Commission upon application of either party may, in its discretion, having regard to the welfare of the employee and the convenience of the employer, order such payment to be made monthly or quarterly instead of weekly.

Unconstitutional parts of act shall not effect whole act.

Section 46. If any part or section of this act be decided by the courts to be unconstitutional or invalid, the same shall not effect the validity of the act as a whole, or any part thereof, which can be given effect without the part so decided to be unconstitutional or invalid.

Section 47. If for the purpose of obtaining any benefit or payment under the provisions of this act, either for himself or for any other person, any one wilfully makes a false statement or representation, he shall be guilty of a misdemeanor and liable to a fine of not exceeding fifty dollars, and he shall forfeit all right to compensation under this act after conviction for such offense.

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--penalty for making false statement.

Section 48. The duties of the commission shall begin on the first day of October, A. D., nineteen hundred fifteen, but the provisions of this act shall not apply to injuries sustained, or accidents which occur prior to January one A. D., nineteen hundred sixteen.

Duties of Commission, when to begin.
--provisions of act, and when to apply.

Section 49. The Commission shall have authority to provide blank forms of notices, agreements and other forms required in its department under this act.

Commission shall provide forms.

Section 50. All acts and parts of acts inconsistent with this act are hereby repealed.

--inconsistent acts repealed.

Section 51. This act may be cited as the Workmen's Compensation Act.

Approved April 1, 1915.

Chapter 296.

An Act to Amend Chapter Thirty-nine of the Public Laws of Nineteen Hundred Eleven, as Amended by Chapter Twenty-six of the Public Laws of Nineteen Hundred Thirteen, Relating to the Weekly Payment of Wages.

Be it enacted by the People of the State of Maine, as follows:

Chapter thirty-nine of the Public Laws of nineteen hundred eleven, as amended by chapter twenty-six of the Public Laws of nineteen hundred thirteen is further amended by striking out all of said chapter and inserting in place thereof the following:

Ch. 39, P. L., 1911, as amended by Ch. 26, P. L., 1913, further amended.

Every corporation, person or partnership, engaged in a manufacturing, mechanical, mining, quarrying, mercantile, street railway, telegraph or telephone business; in any of the building trades; upon public works, or in the construction or repair of street railways, roads, bridges, sewers, gas, water or electric light works, pipes or lines; every incorporated express company or water company; and every steam railroad company or corporation shall pay weekly each employee engaged in his or its business the wages earned by him to within eight days of the date of said payment, but any employee, leaving his or her employment, shall be paid in full on the following regular pay day,

Weekly payment of wages provided for.