

MAINE STATE LEGISLATURE

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Acts and Resolves

As Passed by the

Seventy-Ninth Legislature

OF THE

STATE OF MAINE

1919

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PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the Seventy-Ninth Legislature

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Sec. 2. R. S., c. 36, § 12; relating to when goods shall be deemed to be adulterated, amended. Section twelve of said chapter thirty-six is hereby amended, in the first paragraph thereof, namely, the paragraph defining the adulteration of agricultural seed, by adding in the fourth line of said paragraph after the word "plant" the words 'or any kind or amount of weed seed other than the kinds or amounts represented in the statement required by section three of this chapter. Third. If it, upon test for germination made within six months of the date of test in statement under the provisions of section three herein above, does not show the same germinating power given in said statement prescribed by the provisions of said section three,' so that said third paragraph of said section twelve, as so amended, and as further amended by Senate Amendment A, shall read as follows:

'Sec. 12. Agricultural seed not to contain any amount of weed seed not so marked; test of germination made within six months must show same result, provided package has been kept under proper conditions; proceeding in case of violation as to agricultural seed. For the purpose of this chapter an article shall be deemed to be adulterated:

In case of agricultural seed:

First. If its purity falls below its accompanying guaranty.

Second. If it contains the seed of any poisonous plant, or any kind or amount of weed seed other than the kinds or amounts represented in the statement required by section three of this chapter.

Third. If it, upon test of germination made within six months of the date of test in statement under the provisions of section three herein above, does not show the same germinating power given in said statement prescribed by the provisions of said section three. Provided said seed has been constantly kept under conditions not injurious to its germinating qualities, and that a margin of tolerance of five per cent. shall be allowed. Provided, also, that in the event of violation of this act in relation to seeds, the commissioner of agriculture shall proceed according to the provisions of sections thirty-six and thirty-seven of this chapter.'

Approved April 4, 1919.

Chapter 238.

An Act to Amend Chapter Fifty of the Revised Statutes, Relating to Workmen's Compensation.

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

Sec. 1. Title; words and phrases defined. The first fifty sections of this chapter shall be known, and may be cited, and referred to in proceed-

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ings and agreements thereunder, as "The Workmen's Compensation Act;" the phrase "this act," as used in said sections, refers thereto.

The following words and phrases as used in the first fifty sections of this chapter, shall, unless a different meaning is plainly required by the context, have the following meaning:

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.

II. "Employee" shall include very 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 seaman 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, counties, 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 from any pension or other benefit fund to which the state or municipal body may contribute; (f) except that any town or city may, in lieu of the compensation and insurance provided by this act, continue any member of the fire department or police force in said town, who may have been injured in the course of his duties, on the payroll at full pay, if such full pay exceeds the maximum compensation provided for employees under this act. 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; (g) all persons employed by the state or under the direction and control of any department of the state shall be entitled to the benefits of chapter fifty of the revised statutes. The governor and council shall order such compensation as shall be assessed, paid from the state contingent fund.

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.

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.

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.

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 words "insurance company" are 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.

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.

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:

(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.

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

(c) A child or children, including adopted and step-children under the age of eighteen years (or over said age, but physically or mentally inca-

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pacitated 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.

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 any one 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.

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

(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 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.

(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 daily 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.

(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.

(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.

(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.

(f) The "average weekly wages, earnings or salary" of employees who work seven days per week shall be computed by increasing the average daily wage the employee was receiving at the time of the accident by one-sixth and then multiplying by three hundred and dividing by fifty-two.

Sec. 2. Defenses not permitted. 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.

Sec. 3. Sec. two not applicable to certain employers. 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

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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.

Sec. 4. Not applicable to persons engaged in domestic service, agriculture or logging. 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 engaged in domestic service or agriculture, or in the work of cutting, hauling, rafting or driving logs.

Sec. 5. Sec. two not to apply to assenting employers; such employers exempt from other suits. 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 of chapter ninety-two, or under sections fifty-one to fifty-eight, both inclusive, of this chapter.

Sec. 6. I. Employer may become assenting employer; approval of classifications of policies of insurance companies assuming risks; may withdraw approval. 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.

The insurance commissioner may require the filing of specific rates for workmen's compensation insurance including classifications of risks, experience or any other rating information from insurance companies, authorized to transact such insurance in Maine, and may make or cause to be made such investigations as may be deemed necessary to satisfy himself that such rates are correct and proper before giving his approval and permitting such rates to be promulgated for the use of said companies.

Any insurance company issuing policies covering the payment of compensation provided for in this act shall file with the insurance commis-

sioner 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. Such written assent when once filed shall continue in force without renewal during the life of said original policy or during the life of any subsequent policy or policies filed in renewal of said original policy previous to the expiration of any immediately preceding policy, so that there shall be no interim between policies. In case there shall be such an interim, then a new acceptance must be filed with the policy terminating the interim.

II. Employer desiring to become an assenting employer shall file written assent with the commission and deposit satisfactory security. 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 treasurer of state, 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 treasurer of state 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. Commission shall issue certificate to employer. Upon the filing of such assent and complying with the provisions of paragraph I or II of this section, the commission 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 renewal thereof or until withdrawn as provided in paragraph II, or until the employer assenting under paragraph II shall notify the commission that he withdraws his assent, or

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files an industrial accident policy in place of the securities so deposited by him.

IV. Commission may approve system in use Jan. 1st, 1915; approval of substitute system. 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, nineteen hundred and 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.

V. Notice to be kept posted in place of business. 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.

Sec. 7. Employee subject to this act waives right of action at common law unless notice is given; requisites of notice. 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 ninety-two or under sections fifty-one to fifty-eight, both inclusive, of this chapter, if he shall not have given his employer 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 commission 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.

Sec. 8. Injury or death caused by wilful intention or intoxication not to be compensated for. 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.

Sec. 9. Employee to be incapacitated ten days before compensation. No compensation except medical, surgical and hospital services, nursing, and medicines and mechanical surgical aids as provided in section ten of this act shall be paid thereunder during the first ten days after the accident. If incapacity exists at the expiration of ten days, compensation shall begin on the eleventh day. If incapacity arises after ten days, compensation shall begin on the date such incapacity begins.

Sec. 10. Employer to furnish medical aid during first thirty days. During the first thirty days after the accident the employer shall promptly furnish reasonable medical, surgical, and hospital services, nursing and

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medicines and mechanical surgical aids when they are needed. The amount of such medical, surgical, and hospital services, nursing, medicines and mechanical surgical aids shall not exceed one hundred dollars unless a longer period or a greater sum is allowed by the commission which, in their discretion, they may allow when the nature of the injury or the process of recovery requires it. In case the incapacity does not begin at the time of the accident the thirty-day period shall commence at the time such incapacity begins. Whenever the employer and the employee are unable to agree upon the amount to be allowed for such medical, surgical, and hospital services, nursing, medicines and mechanical surgical aid the amount shall be fixed by the commission upon petition of either party setting forth the facts. In case of emergency or for other justifiable cause the employee shall have the right to select a physician other than the one provided by the employer, and the reasonable cost of his services shall be paid by the employer subject to the approval of the industrial accident commission. Such approval shall be granted only when the commission finds that there was such emergency or justifiable cause and in all cases, that the services were adequate and necessary and the charges reasonable.

Sec. 11. Action for injury of employee not having given notice. If an employee who has not given notice of his claim of common law or statutory rights of 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.

Sec. 12. Employer's liability for death. 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 three-fifths his average weekly wages, earnings, or salary, but not more than fifteen dollars nor less than six dollars a week, for a period of three hundred weeks from the date of the injury, and in no case to exceed three thousand five hundred dollars, 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, who 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 as the amount contributed annually by the employee to such partial dependents bears to the annual earnings of the deceased at the time of injury. 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 the following section:

Sec. 13. Compensation when employee has no dependents. 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. Provided, however, if dependents appear before the commission, within one year after the death of the said employee, and prove that they are entitled to compensation as provided for by this act, and such compensation is decreed to be paid to the said dependents, the reasonable expenses of last sickness and burial as aforesaid shall be deducted from the amount allowed to the said dependents.

Sec. 14. Compensation for total disability, how determined. While the incapacity for work resulting from the injury is total, the employer shall pay the injured employee a weekly compensation equal to three-fifths his average weekly wages, earnings or salary, but not more than fifteen dollars nor less than six dollars a week; and in no case shall the period covered by such compensation be greater than five hundred weeks from the date of incapacity, nor the amount more than forty-two hundred dollars; and if the employee shall die before having received compensation to which he is entitled or which he is receiving as provided in this act, the same shall be payable to the dependents of the said employee for the specified period, and the said dependents shall have the same rights and powers under this act as the said employee would have had if he had lived. 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.

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Sec. 15. Compensation for partial disability. While the incapacity for work resulting from the injury is partial, the employer shall pay the injured employee a weekly compensation equal to three-fifths the difference between his weekly wages, earnings or salary, before the injury and the weekly wages, earnings or salary which he is able to earn thereafter, but not more than fifteen 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. The rate of wages before the injury shall be determined by dividing the whole amount of wages or salary earned by the injured employee during the immediately preceding year, whether for the same employer or not, by the full number of days employed during the same period, provided the injured employee has worked substantially the whole of the immediately preceding year at similar work. If the employee has not so worked, the weekly wages, earnings or salary of an employee working substantially the whole of such immediately preceding year at similar work shall be used in determining the amount of partial compensation due the injured employee.

Sec. 16. Schedule of accidents provided for. 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:

For the loss of a thumb, three-fifths the average weekly wages during fifty weeks.

For the loss of the first finger, commonly called the index finger, three-fifths the average weekly wages during thirty weeks.

For the loss of the second finger, three-fifths the average weekly wages during twenty-five weeks.

For the loss of the third finger, three-fifths the average weekly wages during eighteen weeks.

For the loss of the fourth finger, commonly called the little finger, three-fifths the average weekly wages during fifteen weeks.

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.

For the loss of the great toe, three-fifths the average weekly wages during twenty-five weeks.

For the loss of one of the toes other than the great toe, three-fifths the average weekly wages during ten weeks.

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.

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

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

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

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

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

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

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 fifteen and not less than six dollars a week, as provided for total or partial disability.

In all cases in this class where the usefulness of a member or any physical function thereof is permanently impaired, the compensation shall bear such relation to the amount stated in the above schedule as the incapacity shall bear to the injuries named in this schedule and the commission shall determine the extent of the incapacity.

Sec. 17. Notice of injury to be given employer. 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

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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.

Sec. 18. Form and contents of notice of injury. 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.

Sec. 19. Service of notice to employer of injury. 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.

Sec. 20. Notice to employer of injury not void for mere inaccuracy of statement; when notice unnecessary. 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.

Sec. 21. Employee to submit to examination by physician, or medical examiner. 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 by the employer. The employee shall have the right to have a physician or surgeon selected and paid by himself, present at such examination of which right the employer shall give him notice when requesting such examination.

The chairman or associate legal member 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.

Sec. 22. Savings or insurance not to be taken into consideration. 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.

Sec. 23. Guardian may exercise right of claim in case of injured minors or incompetents. 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 rights, privilege or election accrues to him or them under this act, his guardian, or next friend, or some disinterested person designated by the commission 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. In case the commission shall have reasonable grounds for believing that compensation paid under this act, either in weekly installments or in a lump sum, will be squandered or wasted by the injured employee or his dependents, the commission may designate in writing some disinterested person to act as trustee for the said injured employee or said dependents, and the said trustee shall file an account at least once a year with the said commission showing the amounts of receipts and expenditures in behalf of said injured employee or said dependents.

Sec. 24. Waivers of rights to compensation not valid; claims not assignable. 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.

Sec. 25. Agreement that remedies under this act exclusive, in case of employment out of state; presumption. Employers who hire workmen

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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 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.

Sec. 26. Liability created in person other than employer; election by employee; subrogation of employer to rights of employee. 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.

Sec. 27. Claims under this act entitled to preference over unsecured debt. 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.

Sec. 28. Commutation of payments to lump sum. 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 or 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 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, and the employee accepting the lump sum settlement as aforesaid shall receive no future compensation under the provisions of this act.

Sec. 29. Commission to consist of four members; appointment of chairman and associate legal member; tenure, removal and appointment of successor; appointment of clerk; appropriation; authority of commission. The industrial accident commission of the State of Maine shall consist of four members, two of whom, to be designated as the chairman and associate legal member, respectively, shall be men learned in the law and members in good standing of the bar of this state; the third, the commissioner of labor and industry, and the fourth, the commissioner of insurance. The chairman and associate legal member shall be appointed by the governor, the former for the term of four years and the latter for the term of two years upon the first appointment under this act, all successive appointments to be for the term of three years. The chairman and associate legal member shall hold office for the terms aforesaid, unless removed as herein provided, and until their successors are appointed and qualified. They shall be sworn and for inefficiency, wilful neglect of duty or for malfeasance in office may after notice and hearing be removed by the governor and council. In case of a vacancy occurring through the death, resignation, or removal, the governor shall appoint a successor for the whole term of three years, subject to removal as aforesaid.

The chairman shall receive a salary of three thousand five hundred dollars per annum, beginning January first, nineteen hundred and nineteen, and the associate legal member shall receive a salary of three thousand dollars per annum. The commissioner of labor and industry shall receive the sum of one thousand dollars, in addition to his salary as commissioner of labor and industry. The commissioner of insurance shall receive the sum of five hundred dollars, in addition to his salary as commissioner of insurance. The members of the commission shall also receive their actual, necessary, cash expenses while away from their office on official business of the commission.

The commission shall have a clerk appointed and removable by it. The salary of the clerk of the commission shall be fixed by the governor and council upon recommendation of the commission.

The associate legal member shall have the same authority, powers and duties as the chairman, but shall only exercise said authority, powers and duties when requested in writing to do so by the chairman.

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The sum of twenty-eight thousand two hundred dollars shall be annually appropriated for the payment of salaries, clerical and other assistance, physicians, witness fees, traveling and other 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 powers:

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

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

III. The chairman or the associate legal member at any hearing under the provisions of this act may issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books and papers relating to any matters involved in the hearing. Witness fees in all proceedings under this act shall be the same as for witnesses before the supreme judicial court.

IV. The commission may, when the interests of any of the parties or when the administration of the provisions of this act demand, appoint a person in that part of the state where an accident has happened, to make a full investigation of the circumstances surrounding said accident, and report the same without delay to the office of the said commission.

V. Depositions taken for the causes and in the manner hereinafter mentioned, may be used in all hearings before the industrial accident commission.

The chairman of the industrial accident commission or the associate legal member may issue commissions to take depositions to any United States consul, United States vice consul, any judge of any court of record in the United States or any foreign country, or to any notary public or justice of the peace in the State of Maine, for either of the following causes:

1. When the deponent resides out of, or is absent from the state.
2. When the deponent is bound to sea, or is about to go out of the state.
3. When the deponent is so aged, infirm or sick as to be unable to attend at the place of hearing.

Such deposition shall be taken by written interrogatories to be filed with the chairman, and the adverse party shall have ten days after written

notice of such filing to him or his attorney, in which to file cross-interrogatories thereto, and if cross-interrogatories are not so filed within ten days after such notice, the right of cross-examination shall be considered waived.

The deponent shall be duly sworn and after his answers have been written out, the deposition shall be signed and sworn to by the deponent before the commissioner authorized to take it, and shall by him be sealed up and sent to the chairman of the industrial accident commission at Augusta.

Sec. 30. Memorandum of agreement as to compensation; proceedings upon failure to agree or when agreement is not approved. If the employer and the employee reach an agreement in regard to compensation under this act a memorandum 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 commission 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.

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

Sec. 32. Proceedings as to answers to petitions. Within ten days after the filing of such petition, 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 by the petition. The chairman or associate legal member may grant further time for filing

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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.

Sec. 33. Chairman or associate legal member shall fix time for hearing on petitions; place of hearing. The whole matter shall then be referred to the chairman or associate legal member 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.

Sec. 34. Proceedings at hearing; decisions; decree by justice of supreme judicial court; appeal; modification of decree. If from the petition and answer there appear to be facts in dispute, the chairman or associate legal member of the commission shall then hear such witnesses as may be presented, 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 or associate legal member shall, in a summary manner, decide the merits of the controversy. His decision, 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 the commission of any order or decision of the commission, or of its chairman or associate legal member, 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 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 associate legal member, 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, 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 associate legal member, or upon any memorandum of agreement approved by the commissioner, which has not been certified and presented to the court within twenty days after the notice of the filing thereof by the commission or its chairman or associate legal member. Upon the presentation to it of a certified copy of any decision of the chairman or associate legal member terminating, diminishing, increasing or modifying any payments under the provisions of section thirty-six, or under any decision of said chairman or associate legal member 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.

Sec. 35. Agreement or decision of a chairman or associate legal member shall have same effect as judgment of court. Any agreement between employer and employee filed with the commission and approved by the commissioner or any decision of the chairman or associate legal member 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.

Sec. 36. Agreement, award, findings, or decree may be reviewed. 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 or associate legal member upon the application of either party, after due notice to the other party, upon the grounds that the incapacity of the injured employee has subsequently ended, increased or diminished. Upon such review the said chairman or associate legal member 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 or associate legal member 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;

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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.

Sec. 37. Commission may prescribe forms and make suitable orders of procedure; construction of act. 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 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. It may provide blank forms of notice, agreements, and other forms required under this act.

Sec. 38. Proceedings not to abate because of death. 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.

Sec. 39. Agreement or petition to be made within two years. 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.

Sec. 40. Compulsory upon state, county, cities and quasi-municipal corporations. 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.

Sec. 41. Assenting employers shall make report of accidents; copy of receipts in final settlement filed with commission; penalty for neglect. All assenting employers shall make prompt report to the commission of all accidents to their employees in the course of employment, with the average weekly wages or earnings of such employee, 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.

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 commission, but shall not be binding without the approval of the commission, or of its chairman or associate legal member. 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 credited to the appropriation made for the administration of this act.

Sec. 42. Insurance companies to furnish information to insurance commissioner; penalty for refusal. 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 compensation 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. In case the employer or insurance company liable for any payment under this act shall fail to make the same within ten days after notification by the commission that said failure to make such payment is deemed by said commission to be unreasonable, then for each day after the said ten days, the said employer or the said insurance company, shall be liable to a forfeiture of ten dollars each day for such failure or refusal, to be enforced by the commission in an action of debt in the name of the state. All moneys so recovered shall be paid into the state treasury and credited to the appropriation for the administration of this act.

Sec. 43. Commission to make biennial report. The commission shall make a report for the biennial period ending June thirtieth of an even year giving such full statistical information as may be contained in its department in relation to the administration of this act, particularly with reference to the number of employees affected, the number injured, the amount of compensations received and the cost of the same to the employers.

Sec. 44. Applicability to persons engaged in commerce. This act shall affect 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.

Sec. 45. Payments may be made monthly to non-residents. 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

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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.

Sec. 46. Unconstitutionality of any part not to affect whole. If any part or section of this act be decided by the courts to be unconstitutional or invalid, the same shall not affect 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.

Sec. 47. False statements; penalty for. 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 shall forfeit all right to compensation under this act after conviction for such offense.

Sec. 48. False representations; penalty for. No person other than a member of the commission or its duly authorized subordinates and employees shall in any manner directly or indirectly represent the commission and procure settlement of any claim arising under this act, or in any manner directly or indirectly hold himself out to any employee, dependent or other person interested in his claim to have any authority to act for said commission for any purpose under this act. Any person violating the provisions of this section shall be punished by a fine not exceeding two hundred dollars, or by imprisonment not to exceed sixty days, or by both.

Sec. 49. Not applicable to injuries sustained prior to January 1st, 1916. The provisions of this act shall not apply to injuries sustained or accidents which occur prior to the first day of January, A. D. nineteen hundred sixteen.

Sec. 50. Certain sections R. S. repealed. Sections one to forty-eight inclusive of chapter fifty of the revised statutes of nineteen hundred sixteen, and chapter two hundred twenty-four, chapter two hundred thirty and chapter two hundred forty-one of the public laws of nineteen hundred seventeen are hereby repealed, together with all other acts or parts of acts inconsistent with the preceding forty-nine sections. Sections forty-nine to fifty-seven inclusive of chapter fifty of the revised statutes of nineteen hundred sixteen shall be hereafter numbered fifty-one to fifty-nine inclusive.