

such town or city out of any money of such town or city in his hands. Such payments shall be made by said treasurer upon the receipt by him of a certificate of such expenses satisfactory to him, or of a certified copy of the agreement or decree under which the compensation is to be made: *Provided*, that he shall not make any such payment until the same has been approved by the auditor of such city or town if there be any such officer and if there is not any such officer, then such payment shall first be approved by the mayor of such city or the president of the town council of such town. If more than one payment of money is required by any such agreement or decree such payments shall be made in the manner aforesaid as the same become due. If any expenses or compensation required to be paid by a town or city under the provisions of this chapter, or any instalment thereof, is not paid within 20 days after the aforesaid certificate or certified copy is filed with the treasurer of said town or city, the same may be collected in the manner in which a judgment against a town or city may be collected under the provisions of chapter 352 of the general laws.

§ 7. Legal proceedings under this chapter between the state, a city or town as an employer and any employee thereof shall be brought in the same manner and with the same force and effect as is prescribed herein for any other employer and employee: *Provided*, that if the state be a party to any such proceedings the same shall be brought for and in behalf of the state, in the name of, and by or against the attorney-general and service therein shall be made on said officer, and if a town or city be a party to any such proceedings the same shall be brought for and in behalf of such town or city, in the name of, and by or against the treasurer of such town or city and service therein shall be made on such treasurer. The attorney-general shall appear for and represent the state in any such proceedings in which the state is a party. The provisions of any other law relating to the filing of claims or demands against a town or city shall not apply to claims of compensation, or legal proceedings arising under this chapter, to which a town or city is a party.

§ 8. The provisions of this chapter, requiring employers to insure against liability to pay compensation arising under the provisions of this chapter shall not apply to the state or any city or town therein. (P. L., 1921, Chap. 2095.)

§ 9. Wherever in this chapter the words "city council" are used they shall be construed in the case of the city of Newport to mean the representative council of said city.

§ 10. (a) Members of the national guard hereafter injured in the performance of required, authorized or permitted duty shall be deemed to be employees of the state, and shall be entitled to all the benefits of this chapter in accordance with the limitations, requirements and restrictions thereof.

(b) In ascertaining the "average weekly wages, earnings or salary" of an injured member of the national guard, Article II, § 13 will be followed, and for the purpose of such ascertainment, it will be assumed that said injury occurred in the civilian employment of said injured member of the national guard.

(c) Where an injured member of the national guard receives pay, subsistence, hospitalization, or other benefits from the United States as the result of such injury, such payments shall not affect his right to receive compensation under this chapter. When the payments received from the United States are less than he would have been entitled to receive under this chapter, then he shall be entitled to receive all the benefits to which he would have been entitled under this chapter less the benefits actually received from the United States. (Added by P. L., 1934, Chap. 2123.)

ARTICLE VIII.
(P. L., 1936, Chap. 2358.)
OCCUPATIONAL DISEASES.

- § 1. Words and phrases defined.
- § 2. Disablement from disease to be treated as accidental injury; enumeration of occupational diseases for which compensation payable.
- § 3. Right to compensation for disability or death from enumerated occupational diseases; medical services; effect of ability to earn in another occupation.
- § 4. Necessity for contraction of occupational disease within prescribed time to entitle to compensation.
- § 5. Appointment of physicians by director of labor.
- § 6. Date of disablement.
- § 7. How compensation defeated or reduced; fraud and misrepresentation of employee; aggravation of occupational disease by another.
- § 8. Employer from whom compensation recoverable; apportionment between last and prior employers.
- § 9. Notice to employer; requirements as to; to which employer notice of death or disability to be given.
- § 10. Duty of employee; furnishing information to last employer or director of labor; names and addresses of all other employers.
- § 11. Right of employee with respect to diseases to which article not applicable.
- § 12. Injuries prior to September 15, 1936.

ARTICLE VIII.
(P. L., 1936, Chap. 2358.)
OCCUPATIONAL DISEASES.

§ 1. Whenever used in this article:

- (a) The word "disability" means the state of being disabled from earning full wages at the work at which the employee was last employed;
- (b) The word "disablement" means the event of becoming so disabled as defined in sub-paragraph (a);
- (c) The term "occupational disease" means a disease which is due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation, process or employment.

§ 2. The disablement of an employee resulting from an occupational disease or condition described in the following schedule shall be treated as the happening of a personal injury by accident within the meaning of this chapter and the procedure and practise provided in this chapter shall apply to all proceedings under this article, except where specifically otherwise provided herein:

1. Anthrax.
2. Arsenic poisoning or its sequelae.
3. Brass or zinc poisoning or its sequelae.
4. Lead poisoning or its sequelae.
5. Manganese poisoning.
6. Mercury poisoning or its sequelae.
7. Phosphorous poisoning or its sequelae.
8. Poisoning by wood alcohol.
9. Poisoning by carbon bisulphide, methanol, naphtha, or volatile halogenated hydrocarbons, or any sulphide, or its sequelae.
10. Poisoning by benzol, or nitro-, hydro-, hydroxy- and amido-derivatives of benzol (dinitro-benzol, anilin, and others), or its sequelae.
11. Poisoning by carbon monoxide.
12. Poisoning by nitrous fumes or its sequelae.
13. Poisoning by nickel carbonyl or its sequelae.
14. Dope poisoning (poisoning by tetrachlormethan or any substance used as or in conjunction with a solvent for acetate of cellulose or nitro cellulose or its sequelae).
15. Poisoning by formaldehyde and its preparations.
16. Chrome ulceration or its sequelae or chrome poisoning.
17. Epitheliomatous cancer or ulceration of the skin, or of the corneal surface of the eye, due to tar, pitch, bitumen, mineral oil, or paraffin, or any compound, product or residue of any of these substances.

18. Glanders.
19. Compressed air illness or its sequelae.
20. Minors' disease, including only cellulitis, bursitis, ankylostomiasis, tenosynovitis and nystagmus.
21. Cataract in glassworkers.
22. Radium poisoning or disability due to radioactive properties of substances or to Roentgen rays (X-rays).
23. Methyl chloride poisoning.
24. Poisoning by sulphuric, hydro-chloric or hydro-fluoric acid.
25. Respiratory, gastrointestinal or physiological nerve and eye disorders due to contact with petroleum products and their fumes.
26. Disability arising from blisters or abrasions.
27. Hernia, clearly recent in origin and resulting from a strain, arising out of and in the course of employment and promptly reported to the employer.
28. Infection or inflammation of the skin or eyes or other external contact surfaces or oral or nasal cavities due to oils, cutting compounds, or lubricants, dust, liquids, fumes, gases or vapors.
29. Dermatitis (venenata).
30. Disability arising from bursitis or synovitis.
31. Disability arising from frost bite.

§ 3. If an employee is disabled or dies and his disability or death is caused by one of the diseases mentioned in the schedule contained in § 2 of this article, and the disease is due to the nature of the employment in which such employee was engaged and was contracted therein, he or his dependents shall be entitled to compensation for his death or for his disablement, and he shall be entitled to be furnished with medical and hospital services, all as provided in Article II of this chapter, except as hereinafter stated in this article; *provided, however*, that if it shall be determined that such employee is able to earn wages at another occupation which shall be neither unhealthful nor injurious and such wages do not equal his full wages prior to the date of his disablement, the compensation payable shall be a percentage of full compensation proportionate to the reduction in his earning capacity.

§ 4. Neither the employee nor his dependents shall be entitled to compensation for disability or death resulting from such occupational disease, unless such occupational disease is due to the nature of his employment and was contracted therein, or in a continuous employment similar to the one in which he was engaged at the time of his disablement, within 24 months previous to the date of disablement, whether under one or more employers. The time limit for contraction of the occupational disease prescribed by this section shall not bar compensation in the case of an employee who contracted such occupational disease in the same employment with the same employer by whom he was employed at the time of his disablement, and who had continued in the same employment with the same employer from the time of contracting such occupational disease up to the time of his disablement thereby.

§ 5. The director of labor shall appoint one or more physicians whose duty it shall be to examine any claimant under this article and to make a report in such form as the director may require.

§ 6. For the purposes of this article the date of disablement shall be such date as the director or the court may determine on the hearing on the claim.

§ 7. No compensation shall be payable for an occupational disease if the employee, at the time of entering into the employment of the employer by whom the compensation would otherwise be payable, or thereafter, wilfully and falsely represents in writing that he has not previously suffered from the

disease which is the cause of the disability or death. Where an occupational disease is aggravated by any other disease or infirmity, not itself compensable, or where disability or death from any other cause, not itself compensable, is aggravated, prolonged, accelerated, or in any wise contributed to by an occupational disease, the compensation payable shall be such proportion only of the compensation that would be payable if the occupational disease were the sole cause of the disability or death as such occupational disease, as a causative factor, bears to all the causes of such disability or death, such reduction in compensation, to be effected by reducing the number of weekly payments or the amounts of such payments, as under the circumstances of the particular case may be for the best interests of the claimant or claimants.

§ 8. The total compensation due shall be recoverable from the employer who last employed the employee in the employment to the nature of which the disease was due and in which it was contracted. If, however, such disease was contracted while such employee was in the employment of a prior employer, the employer who is made liable for the total compensation as provided by this section, may appeal to the director of labor for an apportionment of such compensation among the several employers who since the contraction of such disease shall have employed such employee in the employment to the nature of which the disease was due. Such apportionment shall be proportioned to the time such employee was employed in the service of such employers, and shall be determined only after a hearing, notice of the time and place of which shall have been given to every employer alleged to be liable for any portion of such compensation. If the director finds that any portion of such compensation is payable by an employer prior to the employer who is made liable for the total compensation as provided by this section, he shall make an award accordingly in favor of the last employer, and such award may be enforced in the same manner as an award for compensation.

§ 9. The employer to whom notice of death or disability is to be given, or against whom claim is to be made by the employee, shall be the employer who last employed the employee during the said 24 months in the employment to the nature of which the disease was due and such notice and claim shall be deemed reasonable as against prior employers. The requirements as to notice as to occupational disease and death resulting therefrom and the requirements as to the bringing of proceedings for compensation for disability or death resulting from such occupational disease shall be the same as required in § 17 of Article II of this chapter, except that the notice shall be given to the employer within 90 days after the disablement.

§ 10. The employee, or his dependents, if so requested, shall furnish the last employer or the director of labor with such information as to the names and addresses of all his other employers during the said 24 months, as he or they may possess; and if such information is not furnished, or is not sufficient to enable such last employer to take proceedings against a prior employer under § 8 of this article, unless it be established that the occupational disease actually was contracted while the employee was in his employment, such last employer shall not be liable to pay compensation, or, if such information is not furnished or is not sufficient to enable such last employer to take proceedings against other employers under § 8 of this article, such last employer shall be liable only for such part of the total compensation as under the particular circumstances the director may deem just; but a false statement in the information furnished as aforesaid shall not impair the employee's rights unless the last employer is prejudiced thereby.

§ 11. Nothing in this article shall affect the rights of an employee, or his dependents, to recover compensation in respect to a disease to which this article

does not apply, if the disease, apart from this article, is one for which compensation is payable under the other provisions of this chapter.

§ 12. This article shall not apply to cases of occupational disease in which the last injurious exposure to the hazards of such disease occurred prior to the fifteenth day of September, A. D. 1936.

ARTICLE IX.

(P. L., 1917, Chap. 1534.)

MISCELLANEOUS PROVISIONS.

- § 1. Word "employer" what to include. Word "employee" defined. Certain reference to employee, what to include.
- § 2. Liability of employer for fine or penalty under other laws not changed by this chapter.
- § 3. Separability clause.
- § 4. Provisions of section 14, chapter 333, not to apply to parties who become subject to this chapter.
- § 5. Chief of division of labor relationships; powers and duties.
- § 6. Title of chapter.

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

(a) The word "employer" shall include any person, copartnership, corporation or voluntary association, and the legal representative of a deceased employer; and it shall include the state, and also each city and town therein that shall vote to accept the provisions of this chapter in the manner herein provided.

(b) The word "employee" means any person who has entered into the employment of, or works under contract of service or apprenticeship with any employer, and whose remuneration does not exceed \$3,000.00 a year, except that in the case of a city or town it shall only mean such class or classes of employees as may be designated by a city or town in the manner herein provided to receive compensation under this chapter. It shall not include a person whose employment is of a casual nature, and who is employed otherwise than for the purpose of the employer's trade or business, nor shall it include the members of the regularly organized fire and police departments of any town or city; and whenever a contractor has contracted with the state, a city or town, any person employed by such contractor in work under such contract shall not be deemed an employee of the state, city or town, as the case may be. Any reference to an employee who has been injured shall, where the employee is dead, include a reference to his dependents as hereinbefore defined, or his legal representative, or, where he is a minor or incompetent, to his conservator or guardian. (P. L., 1920, Chap. 1900.)

See also annotations, supra under Art. I, § 1.

Change of employer without employee's knowledge. Where a receiver had elected to become subject to the Act in his capacity as receiver but not in his own individual business, and an employee of the receiver was ordered by the receiver to perform certain work which was being done by the receiver in his own business, the employee not being informed of such change of employment, and the employee's death resulted from an accident while performing such work, it was held that the deceased was still at

the time of his death in the employ of the receiver in his official capacity and was protected by the Act, since the employment contract could not be changed by the substitution of a new employer without the knowledge and consent of the employee. *Anderson v. Polleys*, 53 R. I. 182, 165 Atl. 436.

Employment of casual nature. Employment by a street railway company of a laborer to shovel snow from car tracks may be regarded as casual in that the period of its continuance is uncertain and the employment occasional but that circumstance is not sufficient to bar the employee from compensation unless the employment is also not for the purpose of the employer's business, which is not the situation where the removal of snow from tracks is necessary to permit the employer to carry on its business of transportation. *Gibbons v. United Electric Railways Co.*, 48 R. I. 353, 133 Atl. 175.

Physician attending injured employee. A physician's claim against the employer for services rendered an injured employee is not an employee's claim for compensation, as a physician is not an employee within the meaning of this statute which defines the word as including the injured employee and his representatives, dependents, conservator or guardian. The later insertion of a physician's right to direct procedure against the employer creates another claimant who is not an employee in any formerly defined use of the term employee. See *Henry v. American Enamel Co.*, 48 R. I. 113, 136 Atl. 3.

Remuneration not exceeding \$3000 a year. One employed at \$70.00 a week who has no contract of service for year, and whose employment may cease or be terminated at the end of any week, and who has given notice of leaving his work for an indefinite period, is not one whose remuneration exceeds \$3,000.00 a year. *Livingstone Worsted Co. v. Toop*, 48 R. I. 368, 133 Atl. 183.

Salary as exceeding statutory amount. See to the same effect, *O'Bannon Corp. v. Walker*, 46 R. I. 509, 129 Atl. 599 (decided when the statutory amount was \$1,800.00 a year).

§ 2. Nothing in this chapter shall affect the liability of the employer to a fine or penalty under any other statute.

§ 3. If any section of this chapter shall be declared unconstitutional or invalid, such unconstitutionality or invalidity shall in no way affect the validity of any other portion thereof which can be given reasonable effect without the part so declared unconstitutional or invalid.

§ 4. In all cases where an employer and employee shall have elected to become subject to the provisions of this chapter, the provisions of § 1 of chapter 477 of the general laws, shall not apply while this chapter is in effect.

Election binds personal representatives. Death Act. The election of the employee to become subject to the Workmen's Compensation Act binds his personal representatives as well as himself, and where his death results from an accident arising out of and in the course of his employment due to his employer's negligence, his widow cannot maintain an action under Chap. 477. *National India Rubber Co. v. Kilroe*, 54 R. I. 333, 173 Atl. 86.

§ 5. The chief of the division of labor relationships shall have supervision over the enforcement of the provisions of this chapter, and shall perform such other duties as may be prescribed by the director of labor. (P. L., 1935, Chap. 2250, § 92.)

§ 6. This chapter may be cited as "Workmen's Compensation Act."