

GENERAL STATUTES
of
MINNESOTA
1923

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legitimate purposes as freely as they could do if acting singly. ('17 c. 493 § 1)

151-227, 186+785.

4256. When restraining order or injunction is not to be issued—No restraining order or injunction shall be granted by any court of this state, or any judge or judges thereof in any case between an employer and employes or between employer and employes or between employes or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney. ('17 c. 493 § 2)

4257. Not to be issued to prevent termination of employment—No restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment or from ceasing to perform any work or labor; or from recommending, advising or persuading others by peaceful means so to do; or from attending at any place where any person or persons may lawfully be, for the purpose of peacefully obtaining or communicating information, or from peacefully persuading any such person to abstain from working; or from ceasing to patronize any party to such dispute; or from recommending, advising or persuading others by peaceful and lawful means, so to do; or from paying or giving to, or withholding from, any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by a single individual; or shall any of the acts specified in this section be considered

or held to be illegal or unlawful in any court of the state. ('17 c. 493 § 3)

4258. Labor declared not a commodity or article of commerce—The labor of a human being is not a commodity or article of commerce, and the right to enter into the relation of employer and employe, or to change that relation; or to assume and create a new relation for employer and employe; or to perform and carry on business with any person in any place; or to work and labor as an employe, shall be held and construed to be a personal, and not a property right. In all cases involving the violation of the contract of employment, either by the employe or employer where no irreparable damage is about to be committed upon the property or property right of either, no injunction shall be granted, but the parties shall be left to their remedy at law. ('17 c. 493 § 4)

4259. When no indictment is to be returned—No person shall be indicted, prosecuted or tried in any court of this state for entering into or carrying on any arrangement, agreement or combination between themselves made with a view of lessening the number of hours of labor or increasing wages or bettering the condition of working men, or for any act done in pursuance thereof, unless such act is in itself forbidden by law if done by a single individual. ('17 c. 493 § 5)

4260. Not to curtail the power of the executive department or of the courts under certain conditions—Nothing in this act shall hamper or curtail or in any manner take away the power of the executive department of government, or of the courts where there is threatened any irreparable injury to business or property by reason of violence, threats or other unlawful acts, or where criminal syndicalism, as hereinafter defined, or the acts constituting the same, are involved; and criminal syndicalism is hereby defined to be the doctrine which advocates crime, sabotage, violence or other unlawful methods of terrorism as a means of accomplishing industrial, social or political reform. ('17 c. 493 § 6)

CHAPTER 23A

WORKMEN'S COMPENSATION ACT

Part 1

COMPENSATION BY ACTION AT LAW—MODIFICATION OF REMEDIES

4261. Injury or death of employe—When personal injury or death is caused to an employe by accident arising out of and in the course of his employment, of which injury the actual or lawfully imputed negligence of the employer is the natural and proximate cause, he, or, in case of death, his personal representative, for the exclusive benefit of the surviving spouse and next of kin, shall receive compensation by way of damages therefor from his employer, provided the employe was himself not wilfully negligent at the time of receiving such injury; and the question of whether the employe was wilfully negligent shall be one of fact to be submitted to the jury, subject to the usual powers of the court over verdicts rendered contrary to the evidence, or to law. ('21 c. 82 § 1)

139-409, 166+772; 132-249, 156+120; 132-328, 156+669; 134-131, 158+797; 126-286, 148+71; 128-221, 150+623; 128-43, 150+211; 142-356, 172+215; 144-323, 175+610; 145-181,

176+749; 147-413, 180+552; 143-129, 173+405; 144-313, 175+694; 150-507, 185+948; 186+863, 186+860, 190+256; 140-216, 166+185; 140-399, 167+1039; 140-427, 168+130; 140-470, 168+555; 150-2, 188+265; 150-364, 188+286; 151-144, 189+429; 151-428, 860; 152-253, 186+860; 153-151, 189+931. Injuries in course of employment. 129-176, 151+912; 129-502, 153+119; 138-131, 164+585; 138-210, 164+810; 138-250, 164+916; 140-470, 160+555; 138-326, 164+1012; 134-113, 158+913; 138-312, 164+1020; 141-61, 169+274; 141-166, 169+532; 137-435, 163+755; 144-259, 175+110; 149-1, 182+622; 149-429, 183+828; 150-1, 183+977; 150-521, 185+948; 145-286, 177+131; 147-366, 180+219; 153-225, 190+256; 151-258, 186+946; 152-512, 189+426; 153-479, 190+984; 153-150, 189+931.

4262. Certain defenses excluded—In all cases brought under part 1 of this act, it shall not be a defense (a) that the employe was negligent, unless and except it shall also appear that such negligence was wilful; (b) that the injury was caused by the negligence of a fellow employe; (c) that the employe has assumed the risks inherent in, or incidental to the work, or arising out of and in the course of his employment from the failure of the employer to provide and maintain safe premises and suitable appliances, which grounds of defense are hereby abolished except as provided in section 4. ('21 c. 82 § 2)

4261 Et seq. 174m 359, 176m 373, 179m 395, 181m 417, 182m 288, 219nw 392, 223nw 608, 229nw 340, 232nw 915, 236nw 322, 237nw 610, 238nw 692, 239nw 614, See 4290.

261 Et seq. 7-M 475, -M 370, -NW 57, -NW 55, NW 241, NW 539.

4261 6-M 251, 7-NW 185, -NW 193, -NW 621, -NW 636, -NW 645, -NW 64, -NW 1003, -NW 313, -NW 330, NW 477, NW 483.

61 Et seq. NW 813, NW 26, NW 635, NW 644, NW 887, NW 892, NW 898, NW 876.

4261 155-M 466, 157-M 457, 196-NW 586, 201-NW 305, 201-NW 313.

4261 Et seq. 204-NW 635, 204-NW 641.

4261 Et seq. 176m 422, 177m 98, 231nw 214, 232nw 621, 233nw 300, 233nw 467, 242nw 465, 242nw 717, 243nw 706, 245nw 630, 247nw 2.

MINNESOTA STATUTES 1923

C. 23A

WORKMEN'S COMPENSATION ACT

215-NW 678 162-M 203-NW 4269 493 § 4263

4263 182m 419 234nw 687 239nw 896

4269 175m 161 220nw 421 4287

4269 228nw 559

4269 242nw 397 242nw 721 245nw 145 246nw 889

4263. Defenses—When excluded—If the employer elects not to come under part 2 of this act, he loses the right to interpose the three defenses named in section 2 in any action brought against him for personal injury or death of an employe; provided, that this section shall not be held to apply to any employer of farm labor, whether or not he has elected to accept part 2 of this act. ('21 c. 82 § 3)

4264. Defenses—When available—If the employer becomes subject to part 2 of this act and the employe does not, then the employer may set up such defenses as are available at the time of the passage of this act. ('21 c. 82 § 4)

4265. Death claimed—The provisions of Sections 1, 2, 3 and 4 shall apply to any claim for the death of an employe arising under section 4503 of chapter 84, Revised Laws of Minnesota 1905, and the acts or parts of acts amendatory thereof, concerning death by wrongful act. ('21 c. 82 § 5)

4266. Burden of proof—In all actions at law brought pursuant to part 1 of this act, the burden of proof to establish wilful negligence of the injured employe shall be upon the defendant. ('21 c. 82 § 6)

4267. Legal services and disbursements when lien—Medical services, etc.—No claim for legal services or disbursements pertaining to any demand made or suit or proceeding brought under the provisions of this act shall be an enforceable lien against the amount paid as compensation, or be valid or binding in any other respect, unless the same be approved in writing by the judge presiding at the trial, or in case of settlement without trial, by a judge of the district court, or in cases arising under part 2 of this act by the Industrial Commission. Provided, that if notice in writing be given the defendant of such claims for legal services or disbursements, the same shall be a lien against the amount paid as compensation, subject to determination of the amount and approval hereinbefore provided. All sums allowed as liens against such compensation or paid for legal, medical and hospital services and other disbursements arising under part 2 of this act, shall be reported by the employe to the Industrial Commission in writing within ten days after such payment. ('21 c. 82 § 7)

4269. Agreement to be subject to provisions of part 2—If both employer and employe shall, by agreement expressed or implied, or otherwise, as herein provided, become subject to part 2 of this act, compensation according to the schedules hereinafter contained shall be paid by every such employer, in every case of personal injury or death of his employe, caused by accident, arising out of and in the course of employment, without regard to the question of negligence, except accidents which are intentionally self-inflicted or when the intoxication of such employe is the natural or proximate cause of the injury, and the burden of proof of such fact shall be upon the employer. It is hereby made the duty of all such employers to commence payment of compensation at the time and in the manner prescribed by part 2 of this act without the necessity of any agreement or order of the commission, payments to be made at the intervals when the wage was payable as nearly as may be. No agreement by any employe or dependent to take as compensation an amount less than that prescribed by law shall be valid. ('21 c. 82 § 9)

129-502. 153+119; 137-30, 162+678; 141-64, 169+254; 141-166, 169+532. 141-348. 170+218; 144-313, 175+694; 145-98, 176+155; 145-286, 171+131.

4270. Surrender of other rights—Such agreement or the election hereinafter provided for shall be a surrender by the parties thereto of their rights to any other method, form or amount of compensation or determination thereof than as provided in part 2 of this act, and an acceptance of all the provisions of part 2 of this act, and shall bind the employe himself, and for compensation for his death shall bind his personal representative, the surviving spouse and the next of kin, as well as the employer, and those conducting his business during bankruptcy or insolvency, for compensation for death or injury, as provided for by part 2 of this act. ('21 c. 82 § 10)

4271-72 169-M 367

4271. Presumption as to acceptance of provisions of part 2—All contracts of employment made after the taking effect of this act shall be presumed to have been made with reference, and subject to the provisions of part 2, unless otherwise expressly stated in the contract in writing, and a copy of such contract or the portion of the contract containing such provision shall be filed with the Industrial Commission; or unless written or printed notice has been given by either party to the other, as hereinafter provided that he does not accept the provisions of part 2. Every employer and every employe is presumed to have accepted and come under part 2 hereof, unless prior to the accident, he shall have signified his election not to accept or be bound by the provisions of part 2. This election not to accept part 2 shall be by notice as follows:

The employer shall post and keep posted in a conspicuous place in his shop or place of business and such other places as the Industrial Commission may order, a written or printed notice of his election not to be bound by part 2 hereof and file a duplicate thereof with the Industrial Commission.

The employe shall give written or printed notice to the employer of his election not to be bound by part 2, and file a duplicate with affidavit of service attached thereto with the Industrial Commission.

All such notices of election or re-election shall be on forms prescribed by the Industrial Commission and the election shall become effective when the copy of the notice is filed with the Industrial Commission. ('21 c. 82 § 11, amended '23 c. 300 § 2)

127-399, 149+662, 128-158, 150+620; 144-322, 175+610; 150-182, 184+833.

4271 161-M 240 201-NW 305

4271 166-M 251 207-NW 636 211-NW 327

4274A-B 246nw 28 4274a 245nw 150

4264 1-M 275 1-NW 543 4264 -NW 188

4267 231nw 193 4324

154-M 217 4268 154-M 184 55-M 5 57-M 358 91-NW 607 91-NW 1009 96-NW 266 98-NW 290 98-NW 295 01-NW 305 01-NW 312 01-NW 313

4269 57-M 35 58-M 506 5-NW 766 8-NW 290

4271 1-NW 312

4267 1-NW 674 G.S. 4324

4268 1-M 325 1-M 358 3-M 251 3-M 339 1-M 72 1-NW 636 5-NW 18 1-NW 421 1-NW 192

268 Et seq. 2-NW 461 467 20A 209 0-NW 47

4268 19 - 363 19 - 532 27 - 190 173m 414 173m 441 174m 594 217nw 370 217nw 491 222nw 525 4280

4268 176m 100 177m 503 225nw 428 230nw 124 234nw 452 4326 F&C

4268 Et seq. 33 - 134 185m 70 215nw 136 240nw 483 243nw 706 246nw 542

Part II.

ELECTIVE COMPENSATION

4268. Not applicable to certain employments—This act shall not be construed or held to apply to any common carrier by steam railroad, domestic servants, farm laborers or persons whose employment at the time of the injury is casual, and not in the usual course of the trade, business, profession or occupation of his employer; provided, that part 2 of this act shall apply to farm labor if the employer shall have elected to accept the provisions of such part 2 by posting a written or printed statement of his election and filing a duplicate thereof with the Industrial Commission as provided by section 11 of this act, before the accident occurs to an employe, for which damages or compensation may be claimed, unless the employe shall signify his election, as provided by section 11 of this act, not to accept or be bound by the provisions of this act, in which case said part 2 shall not apply; and, provided further, that either party may terminate his acceptance or election not to accept the provisions of part 2 of this act as provided by section 12 hereof. ('21 c. 82 § 8, amended '23 c. 300 § 1)

128-486, 151+182; 132-328, 156+669; 131-352, 155+103; 126-286, 148+71; 138-103, 164+366; 138-416, 165+268. 151-428, 188+860; 154-498, 191+1009; 192+106.

4272. Termination of acceptance or election—Notice—Either party may terminate his acceptance, or his election not to accept the provisions of part 2 by thirty (30) days' written notice to the other, such notice to be given as provided in section 11. A duplicate of such notice with affidavit of service attached thereto shall be filed with the Industrial Commission and the time shall not begin to run until the notice is so filed. ('21 c. 82 § 12)

127-400, 149+662; 148-277, 181+643.

4273. Minors have power to contract, etc.—Minors who are permitted to work by the laws of this state shall, for the purpose of part 2 of this act, have the same power to contract, make election of remedy, make settlements, and receive compensation as adult employes; subject, however, to the power of the Industrial Commission, in its discretion at any time to require the appointment of a guardian to make such settlement and to receive moneys thereunder or under an award. ('21 c. 82 § 13)

4274. Schedule of compensation—Following is the schedule of compensation: (a) For injury producing temporary total disability, sixty-six and two-thirds per centum of the daily wage at the time of injury subject to a maximum compensation of twenty (\$20.00) dollars per week and a minimum of eight (\$8.00) dollars per week; provided, that if at the time of injury the employe receives wages of eight (\$8.00) dollars or less per week, then he shall receive the full amount of such wages per week. This compensation shall be paid during the period of such disability; not, however, beyond three hundred (300) weeks, payment to be made at the intervals when the wage was payable, as nearly as may be.

(b) In all cases of temporary partial disability the compensation shall be sixty-six and two-thirds per centum of the difference between the daily wage of the workman at the time of injury and the wage he is able to earn in his partially disabled condition. This compensation shall be paid during the period of such disability, not, however, beyond three hundred (300) weeks, payment to be made at the intervals when the wage was payable as nearly as may be and subject to the same maximum as stated in clause (a).

(c) For the permanent partial disability from the loss of a member, the compensation during the healing period to be determined by the commission but not exceeding fifteen weeks shall be sixty-six and two-thirds per centum of the difference between the daily wage of the workman at the time of injury and the wages he shall be able to earn, if any, in his partially disabled condition, unless on application to the Industrial Commission, made in the same manner as provided in section 19 for additional medical service, the period is extended by the Commission for not to exceed an additional ten weeks; and thereafter, and in addition thereto, compensation shall be that named in the following schedule:

- (1) For the loss of a thumb, sixty-six and two-thirds per centum of the daily wage at the time of injury during sixty (60) weeks.
- (2) For the loss of a first finger, commonly called index finger, sixty-six and two-thirds per centum of the daily wage at the time of injury during thirty-five (35) weeks.
- (3) For the loss of a second finger, sixty-six and two-thirds per centum of the daily wage at the time of the injury during thirty (30) weeks.
- (4) For the loss of a third finger, sixty-six and two-thirds per centum of the daily wage at the time of the injury during twenty (20) weeks.

- (5) For the loss of a fourth finger, commonly called the little finger, sixty-six and two-thirds per centum of the daily wage at the time of injury during fifteen (15) weeks.
- (6) The loss of the first phalange of the thumb, or of any finger, shall be considered equal to the loss of one-half of such thumb or finger and compensation shall be paid at the prescribed rate during one-half the time specified above for such thumb or finger.
- (7) The loss of one and one-half or more phalanges shall be considered as the loss of the entire finger or thumb; provided, however, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.
- (8) For the loss of a great toe, sixty-six and two-thirds per centum of the daily wage at the time of injury during thirty (30) weeks.
- (9) For the loss of one of the toes other than a great toe, sixty-six and two-thirds per centum of the daily wage at the time of injury during ten (10) weeks.
- (10) The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe; and compensation shall be paid at the prescribed rate during one-half the time specified above for such toe.
- (11) The loss of one and one-half or more phalanges shall be considered as the loss of the entire toe.
- (12) For the loss of a hand, not including the wrist movement, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and fifty (150) weeks.
- (13) For the loss of a hand, including the wrist movement, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and seventy-five (175) weeks.
- (14) For the loss of an arm, sixty-six and two-thirds per centum of the daily wage at the time of injury during two hundred (200) weeks.
- (15) Amputation of the arm below the elbow shall be considered as the loss of a hand including wrist movement, if enough of the forearm remains to permit the use of an effective artificial member, otherwise it shall be considered as the loss of an arm.
- (16) For the loss of a foot, not including the ankle movement, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and twenty-five (125) weeks.
- (17) For the loss of a foot including ankle movement, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and fifty (150) weeks.
- (18) For the loss of a leg, if enough of the leg remains to permit the use of an effective artificial member, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and seventy-five (175) weeks.
- (19) For the loss of a leg so close to the hip that no effective artificial member can be used, sixty-six and two-thirds per centum of the daily wage at the time of injury during two hundred (200) weeks.
- (20) Amputation of the leg below the knee shall be considered as loss of foot including ankle movement, if enough of the lower leg remains

4273
158-M 506
198-M 290
4274 - 75
25 - 161
158-M 405
196-NW 566
201-NW 545

4274
29 - 250
15 - 209
154-M 23
161-M 318
4274-75
206-NW 714
4274-75
165-M 390
4274
230nw 897
4274
180m 411
236nw 215
4274B
223nw 787
4270
4274C
sub secs
6, 7, 38,
41 & 44
174m 551
219nw 867
4279
4274c
25 - 219

427410
228nw 160
427441

to permit the use of an effective artificial member; otherwise it shall be considered as loss of leg.

- (21) For the loss of an eye, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred (100) weeks.
- (22) For complete permanent loss of hearing in one ear, sixty-six and two-thirds per centum of the daily wage at the time of injury during fifty-two (52) weeks.
- (23) For the complete permanent loss of hearing in both ears, sixty-six and two-thirds per centum of the daily wage at the time of injury during one hundred and fifty-six (156) weeks.
- (24) For the loss of an eye and a leg, sixty-six and two-thirds per centum of the daily wage at the time of injury during three hundred and fifty (350) weeks.
- (25) For the loss of an eye and arm, sixty-six and two-thirds per centum of the daily wage at the time of injury during three hundred and fifty (350) weeks.
- (26) For the loss of an eye and a hand, sixty-six and two-thirds per centum of the daily wage at the time of injury during three hundred and twenty-five (325) weeks.
- (27) For the loss of an eye and a foot, sixty-six and two-thirds per centum of the daily wage at the time of injury during three hundred (300) weeks.
- (28) For the loss of two arms other than at the shoulder, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.
- (29) For the loss of two hands, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.
- (30) For the loss of two legs, other than so close to the hips that no effective artificial members can be used, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.
- (31) For the loss of two feet, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.
- (32) For the loss of one arm and the other hand, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.
- (33) For the loss of one hand and one foot, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.
- (34) For the loss of one leg and the other foot, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.
- (35) For the loss of one leg and one hand, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.
- (36) For the loss of one arm and one foot, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.
- (37) For the loss of one arm and one leg, sixty-six and two-thirds per centum of the daily wage at the time of injury during four hundred (400) weeks.

- (38) For serious disfigurement not resulting from the loss of a member or other injury specifically compensated, materially affecting the employability of the injured person in the employment in which he was injured or other employment for which the employe is then qualified, sixty-six and two-thirds per centum of the daily wage at the time of injury for such period as the Industrial Commission may determine, not to exceed seventy-five (75) weeks.
- (39) Where an employe sustains concurrent injuries resulting in concurrent disabilities, he shall receive compensation only for the injury which entitles him to the largest amount of compensation; but this section shall not affect liability for serious disfigurement materially affecting the employability of the injured person or liability for the concurrent loss of more than one member, for which members compensations are provided in the specific schedule and in sub-section (e) below.
- (40) In all cases of permanent partial disability it shall be considered that the permanent loss of the use of a member shall be equivalent to and draw the same compensation as the loss of that member; but the compensation in and by said schedule provided, shall be in lieu of all other compensation in such cases, except as otherwise provided by this section.
- (41) In cases of permanent partial disability due to injury to a member, resulting in less than total loss of such member not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss of the respective member, which the extent of injury to the member bears to its total loss.
- (42) All the compensation provided in clause (c) of this section for loss of members or loss of the use of members are subject to the same limitations as to maximum and minimum as are stated in clause (a).
- (43) In addition to the compensation provided in the foregoing schedule for loss or loss of the use of a member, the compensation during the period of retraining for a new occupation as certified by the division of re-education, operating under Chapter 365, Laws of Minnesota 1919, shall be sixty-six and two-thirds per centum of the daily wage at the time of the injury, not exceeding twenty-five (25) weeks, provided the injury is such as to entitle the workman to compensation for at least seventy-five (75) weeks in the schedule of indemnities for permanent impairments and provided the Industrial Commission on application thereto shall find that such retraining is necessary and make an order for such compensation.
- (44) In all other cases of permanent partial disability not above enumerated the compensation shall be sixty-six and two-thirds per centum of the difference between the wage of the workman at the time of the injury and the wage he is able to earn in his partially disabled condition subject to a maximum of twenty (\$20.00) dollars per week. Compensation shall continue during disability, not, however, beyond three hundred (300) weeks.
- (d) For permanent total disability as defined in sub-section (e) below, sixty-six and two-thirds per centum

4274
Sub. sec.
28-37
177m 589
225nw 895

4274⁴¹
228nw 169
4274¹⁰

4274⁴³
166-M 139
207-NW 202

4274^D
168-M 328

4274^D
210-NW 75
212-NW 20
23-G.S. 4291¹

4274^D
232nw 342

of the daily wage at the time of the injury, subject to a maximum compensation of twenty (\$20.00) dollars per week, and a minimum compensation of eight (\$8.00) dollars per week; provided, that if at the time of the injury the employe was receiving wages of eight (\$8.00) dollars or less per week, then he shall receive the full amount of his wages per week. This compensation shall be paid during the permanent total disability of the injured person, but the total amount payable under this sub-section shall not exceed ten thousand (\$10,000) dollars in any case; payments to be made at the intervals when the wage was payable as nearly as may be. Provided, however, that in case an employe who is permanently and totally disabled becomes an inmate of a public institution, then no compensation shall be payable during the period of his confinement in such institution, unless he has wholly dependent on him for support a person or persons named in sub-sections (1), (2) and (3) of section 15 (whose dependency shall be determined as if the employe were deceased); in which case the compensation provided for in this sub-section shall during the period of such employe's confinement, as aforesaid, be paid for the benefit of said persons so dependent during dependency.

(e) The total and permanent loss of the sight of both eyes or the loss of both arms at the shoulder, or the loss of both legs so close to the hips that no effective artificial members can be used, or complete and permanent paralysis, or total and permanent loss of mental faculties, or any other injury which totally incapacitates the employe from working at an occupation which brings him an income, shall constitute total disability.

(f) In case a workman sustains an injury due to accident arising out of and in the course of his employment, and during the period of disability caused thereby, death results proximately therefrom, all payments previously made as compensation for such injury shall be deducted from the compensation, if any, due on account of the death. Accrued compensation due to the deceased prior to death but not paid, shall be payable to such dependent persons as the Industrial Commission may order without probate administration. ('21 c. 82 § 14, amended '23 c. 300 § 3; '23 c. 408 § 1)

4275. Dependents and allowances—(1) For the purpose of this act, the following described persons shall be conclusively presumed to be wholly dependent: (a) wife, unless it be shown that she was voluntarily living apart from her husband at the time of his injury or death. (b) Minor children under the age of sixteen years.

(2) Children between sixteen and eighteen years of age, or those over eighteen if physically or mentally incapacitated from earning, shall prima facie, be considered dependent.

(3) Wife, child, husband, mother, father, grandmother, grandfather, grandchild, sister, brother, mother-in-law, father-in-law who were wholly supported by the deceased workman at the time of his death and for a reasonable period of time immediately prior thereto, shall be considered his actual dependents, and payment of compensation shall be made to them in the order named.

(4) Any member of a class named in subdivision (3), who regularly derived part of his support from the wages of the deceased workman at the time of his death and for a reasonable period of time immediately prior thereto, shall be considered his partial dependent, and payment of compensation shall be made to such dependents in the order named.

(5) In death cases, compensation payable to dependents shall be computed on the following basis, and shall be paid to the persons entitled thereto, without administration.

(6) If the deceased employe leave a widow and no dependent child, there shall be paid to the widow forty per centum of the daily wage at the time of the injury of the deceased.

(7) If the deceased employe leave a widow or widower and one dependent child, there shall be paid to the widow or widower for the benefit of herself or himself and such child, fifty per centum of the daily wage at the time of injury of the deceased.

(8) If the deceased employe leave a widow or widower and either two or three dependent children, there shall be paid to the widow or widower for the benefit of herself or himself and such children, sixty per centum of the daily wage at the time of injury of the deceased.

(9) If the deceased employe leave a widow or widower and four or more dependent children, there shall be paid to the widow or widower for the benefit of herself or himself and such children, sixty-six and two-thirds per centum of the daily wage at the time of injury of the deceased.

(10) In all cases where compensation is payable to the widow or widower for the benefit of herself or himself and dependent child or children, the Industrial Commission shall have power to determine in its discretion what portion of the compensation shall be applied for the benefit of any such child or children and may order the same paid to a guardian.

(11) In the case of remarriage of a widow without dependent children, she shall receive a lump sum settlement equal to one-half of the amount of the compensation remaining unpaid but not to exceed two full years' compensation. In case of remarriage of a widow who has dependent children, the unpaid balance of compensation which would otherwise become her due shall be payable to the mother, guardian, or such other person as the Industrial Commission may order, for the use and benefit of such children during dependency; provided that if the dependency of the children ceases before the equivalent of two years of the mother's compensation has been paid to the children, the remainder of the two years' compensation shall be payable in a lump sum to the mother. The lump sum payment as provided herein shall be paid within sixty (60) days after written notice to the employer of such remarriage.

(12) If the deceased employe leave a dependent orphan, there shall be paid forty-five per centum of the daily wage at the time of injury of the deceased, with ten per centum additional for each additional orphan with a maximum of sixty-six and two-thirds per centum of such wages.

(13) If the deceased employe leave a dependent husband and no dependent child, there shall be paid to the husband thirty per centum of the daily wage at the time of injury of the deceased.

(14) If the deceased employe should leave no widow or child or husband entitled to any payment hereunder, but should leave a parent or parents, either or both of whom are wholly dependent on the deceased, there shall be paid, if only one parent, thirty-five per centum of the daily wage at the time of injury of the deceased, and if both parents, forty-five per centum of the daily wage at the time of injury of the deceased to such parent or parents.

(15) If the deceased should leave no widow or child or husband or parent entitled to any payment hereunder, but should leave a grand-parent, grandchild, brother, sister, mother-in-law, or father-in-law wholly

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223nw 773
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180m 289
237nw 606
239nw 761
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155-M 178
193-NW 163
4275 20
1-M
4275 630
9-NW
4275
Sub sec.
3 & 4
173m 498
174m 227
177m 332
217nw 679
218nw 882
225nw 117
4275
Sub. Div.
3 & 4
230nw 652
4275
0-M 159
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2-NW 175
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244nw 807

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dependent on him for support, there shall be paid to such dependent, if but one, thirty per centum of the daily wage at the time of injury of the deceased, or if more than one, thirty-five per centum of the daily wage at the time of injury of the deceased, divided between or among them share and share alike.

(16) If compensation is being paid under part 2 of this act to any dependent, such compensation shall cease upon the death or marriage of such dependent, unless otherwise provided herein.

(17) Partial dependents shall be entitled to receive only that proportion of the benefits provided for actual dependents which the average amount of wages regularly contributed by the deceased to such partial dependent at, and for a reasonable time immediately prior to the injury, bore to the total income of the dependent during the same time.

(18) In all cases where death results to an employe caused by accident arising out of and in the course of employment, the employer shall pay in addition to the expenses provided for in section 19, the expense of burial, not exceeding in amount one hundred and fifty (\$150.00) dollars, except in cases where an insurer of the deceased or a benefit association is liable therefor, or for a part thereof; in which case the employer shall not be required to pay any part of such expense, for which such insurer or a benefit association is liable, unless such non-payment by the employer would diminish the benefits received by the dependents of the deceased from any such insurer or a benefit association. In case any dispute arises as to the reasonable value of the services rendered in connection with the burial, the same shall be determined and approved by the Industrial Commission before payment, after such reasonable notice to interested parties as the Industrial Commission shall require. If the deceased leave no dependents, no compensation shall be payable except as provided by this subsection or section 16 hereof.

(19) The compensation payable in case of death to persons wholly dependent shall be subject to a maximum compensation of twenty (\$20.00) dollars per week and a minimum of eight (\$8.00) dollars per week; provided that if at the time of injury the employe receives wages of eight (\$8.00) dollars or less per week, then the compensation shall be the full amount of such wages per week. The compensation payable to partial dependents shall be subject to a maximum of twenty (\$20.00) dollars per week and a minimum of eight (\$8.00) dollars per week; provided that if the income loss of the said partial dependents by such death is eight (\$8.00) dollars or less per week; then the dependents shall receive the full amount of their income loss. This compensation shall be paid during dependency, but shall not exceed seventy-five hundred (\$7,500.00) dollars in case of a dependent wife, child, children or orphan, and shall not exceed three hundred (300) weeks in case of any other dependent, payments to be made at the intervals when the wage was payable as nearly as may be.

(20) Actual dependents shall be entitled to take compensation in the order named in Sub-section (3) above, during dependency, until sixty-six and two-thirds per centum of the daily wage of the deceased at the time of injury shall have been exhausted, provided that such compensation shall not exceed seventy-five hundred (\$7,500.00) dollars in case of a dependent wife, child, children or orphan, or continue beyond three hundred (300) weeks in case of any other dependent; but the total compensation to be paid to all actual dependents of a deceased employe shall not exceed in the aggregate twenty (\$20.00) dollars per week. ('21 c. 82 § 15, amended '23 c. 300 § 4; '23 c. 408 §§ 2, 3)

128-222, 623; 128-338, 151+123; 131-27, 154+509; 132-249, 156+120; 133-454, 158+509; 134-131, 158+798; 134-324, 159+755; 146-62, 177+934; 133-265, 158+250; 149-4, 182+622, 149-308, 183+839.

4276. Injury increasing disability—If an employe receive an injury, which of itself, would only cause permanent partial disability, but which combined with a previous disability does in fact cause permanent total disability, the employer shall only be liable for the permanent partial disability caused by the subsequent injury.

Provided, however, that in addition to compensation for such permanent partial disability and after the cessation of the payments for the prescribed period of weeks, the employe shall be paid by the state the remainder of the compensation that would be due for permanent total disability, out of a special fund known as the Special Compensation Fund, and created for such purpose in the following manner:

Every employer shall pay to the state treasurer for every case of injury occurring in his employ and causing death in which there are no persons entitled to compensation the sum of two hundred (\$200.00) dollars, which is to be placed into this special compensation fund and to be used to pay the benefits provided by this section. All moneys heretofore arising from the provisions of this section shall be transferred to this special compensation fund. All penalties collected for violation of any of the provisions of this act shall be credited to this special compensation fund.

The State Treasurer shall be the custodian of this special fund and the Industrial Commission shall direct the distribution thereof, the same to be paid as other payments of compensation are paid. In case deposit is or has been made under the provisions of this section, and dependency later is shown, the state treasurer is hereby authorized to refund such deposit. ('21 c. 82 § 16, amended '23 c. 300 § 5)

129-156, 151+910; 143-400, 173+857.

4277. Liability of joint employers—In case any employe for whose injury or death compensation is payable under part 2 of this act shall, at the time of the injury, be employed and paid jointly by two or more employers subject to this act, such employers shall contribute the payment of such compensation in the proportion of their several wage liability to such employe. If one or more but not all of such employers should be subject to part 2 of this act, and otherwise subject to liability for compensation hereunder, then the liability of such of them as are so subject, shall be to pay the proportion of the entire compensation which their proportionate wage liability bears to the entire wages of the employe; provided, however, that nothing in this section shall prevent any arrangement between such employers for a different distribution, as between themselves, of the ultimate burden of such compensation. ('21 c. 82 § 17)

4278. When compensation begins—In cases of temporary total or temporary partial disability no compensation shall be allowed for the first week after the disability commenced except as provided by section 19, nor in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in section 20. Provided, however, that if such disability continues for four weeks or longer, such compensation shall be computed from the commencement of such disability. ('21 c. 82 § 18)

4279. Medical and surgical treatment—The employer shall furnish such medical, surgical and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches and apparatus, including artificial members, as may reasonably be required at the time of the injury, and during the disability for not exceeding ninety (90) days to cure and relieve from the effects of the injury, provided that in case of his

4275¹⁷
70-M 159
4275¹⁷
12-NW 175
4275
Sub. Sec.
17, 19-20
230nw 652

4275¹⁹
200-NW 927
4276 Et. sec.
200-NW 292
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153-M 480

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220nw 553
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179m. 388
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4277
171-M 402
214-NW 265

4279
13-467¹⁴
15-209¹⁴
19-354
19-359
29-248
174m 561
210nw 807
221nw 65
223nw 508
223nw 787
9283

170-M 207
212-NW 19
4279
212-NW 19
153-M 41
167-M 46
209-NW 42
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4279-80
242nw 397

inability or refusal seasonably to do so, the employer shall be liable for the reasonable expense incurred by or on behalf of the employe in providing the same; provided further that upon request by the employe made during or after said period of ninety (90) days, the Industrial Commission may require the above treatment, articles and supplies for such further time as the Industrial Commission may determine, and a copy of such order shall be forthwith mailed to the parties in interest. Any party in interest within ten days from the date of mailing, may demand a hearing and review of such order.

The Commission may at any time upon the request of an employe or employer order a change of physicians and designate a physician suggested by the injured employe or by the Commission itself and in such case the expense thereof shall be borne by the employer upon the same terms and conditions as hereinbefore provided in this section for medical and surgical treatment and attendance.

The pecuniary liability of the employer for the treatment, articles and supplies herein required, shall be limited to such charges therefor as prevail in the same community for similar treatment, articles and supplies furnished to injured persons of a like standard of living, when the same are paid for by the injured persons. The Industrial Commission may on the basis above stated determine the reasonable value of all such service and supplies and the liability of the employer shall be limited to the amount so determined. ('21 c. 82 § 19, amended '23 c. 300 § 6)

4280 5-NW 258
4280 64-M 358
4280 19 -- 363
173m 414
217nw 401
4268

4280. Notice of injury, etc.—Unless the employer shall have actual knowledge of the occurrence of the injury, or unless the injured workman, or a dependent, or someone in behalf of either, shall give notice thereof to the employer in writing, within fourteen (14) days after the occurrence of the injury, then no compensation shall be due until such notice is given or knowledge obtained. If the notice is given, or the knowledge obtained within thirty (30) days from the occurrence of the injury, no want, failure, or inaccuracy of a notice shall be a bar to obtaining compensation, unless the employer shall show that he was prejudiced by such want, defect or inaccuracy, and then only to the extent of such prejudice. If the notice is given, or the knowledge obtained within ninety (90) days, and if the employe, or other beneficiary, shall show that his failure to give prior notice was due to his mistake, inadvertence, ignorance of fact or law, or inability, or to the fraud, misrepresentation or deceit of the employer or his agent, then compensation may be allowed, unless the employer shall show that he was prejudiced by failure to receive such notice, in which case the amount of compensation shall be reduced by such sum, as shall fairly represent the prejudice shown. Unless knowledge be obtained or notice given, within ninety (90) days after the occurrence of the injury, no compensation shall be allowed. ('21 c. 82 § 20)
129-243, 152+838; 131-352, 155+103; 132-251, 156+278; 148-140, 180+1014.

4281 155-M 176

4281. Service and form of notice—The notice referred to in section 20 may be served personally upon the employer, or upon any agent of the employer upon whom a summons may be served in a civil action, or by sending it by registered mail to the employer at the last known residence or business place thereof within the state, and shall be substantially in the following form:

NOTICE.

"You are hereby notified that an injury was received by (name).....who was in your employment at (place).....while en-

gaged as (kind of work).....on or about the.....day of19...., and who is now located at (give town, street and number).....that so far as now known, the nature of the injury was.....and that compensation may be claimed therefor.

(Signed)..... (giving address)

Dated 19...."

But no variation from this form shall be material if the notice is sufficient to advise the employer that a certain employe, by name, received a specified injury in the course of his employment on or about a specified time, at or near a certain place specified. ('21 c. 82 § 21)

134-21, 151+715; 150-364, 185+388; 151-423, 186+861; 154-23, 191+277; 193+163.

4282. Limit of actions—The time within which the following acts shall be performed under part 2 of this act shall be limited to the following periods, respectively:

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243nw 108
42821
177m 555
225nw 889
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4318-20

(1) Actions or proceedings by an injured employe to determine or recover compensation; two years after the employer has made written report of the injury to the Industrial Commission but not to exceed six years from the date of the accident.

(2) Actions or proceedings by dependents to determine or recover compensation two years after the receipt by the Industrial Commission of notice in writing of death given by the employer but not to exceed six years from the date of the accident; provided that in any such case, if a dependent of the deceased or any one in his behalf shall give notice of such death to the Industrial Commission, said Commission shall forthwith notify in writing the employer of the time and place of such death. In case the deceased was a native of a foreign country, and leaves no known dependent or dependents within the United States, it shall be the duty of the Industrial Commission to give written notice of said death to the consul or other representative of said foreign country forthwith.

(3) In case of physical or mental incapacity, other than minority, of the injured person or his dependents to perform or cause to be performed any act required within the time by this section specified, the period of limitation in any such case shall be extended for two years from the date when such incapacity ceases. ('21 c. 82 § 22, amended '23 c. 300 § 7)

4283. Examination and verification of injury—

(1) The injured employe must submit himself to examination by the employer's physician, if requested, by the employer, and at reasonable times thereafter upon the employer's request. The employe shall be entitled upon request to have his own physician present at any such examination. Each party shall defray the cost of his own physician.

(2) In case of dispute as to the injury, the Industrial Commission, or in case of a hearing, the commissioner or referee conducting the hearing may, upon its or his own motion, or upon request of any interested party designate a neutral physician of good standing and ability to make an examination of the injured person and report his findings to the Industrial Commission, a commissioner or referee as the case may be. A copy of the signed certificate of such neutral physician shall be mailed to the parties in interest and either party within five days from date of mailing may demand that such physician be produced for purpose of cross-examination. Such signed certificate of a neutral physician shall be competent evidence of the facts stated therein. The expense of such examination shall be paid as ordered by the Commission, commissioner or referee.

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247nw 805

(3) If the injured employe refuses to comply with any reasonable request for examination, his right to compensation may be suspended by order of the Commissioner and, in such case, no compensation shall be paid while he continues in such refusal.

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242nw 465

(4) In all death claims where the cause of death is obscure or disputed, any interested party may request an autopsy and if denied, the Commission may upon petition order the same; the cost of such autopsy shall be borne by the party demanding the same.

(5) Any physician designated by the Commission, Commissioner or Referee, or whose services are furnished or paid for by the employer, who treats, or who makes or is present at any examination, of an injured employe, may be required to testify as to any knowledge acquired by him in the course of such treatment or examination, relative to the injury or the disability resulting therefrom. ('21 c. 82 § 23, amended '23 c. 300 § 8)

See notes under prior sections.

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4284. Compensation to alien dependents—In case a deceased employe, for whose injury or death compensation is payable, leaves surviving him an alien dependent or dependents residing outside of the United States, the Industrial Commission shall direct payment of all compensation due to the deceased or to his dependents, to be made to the duly accredited consular officer of the country of which the beneficiaries are citizens, if such consular officer resides within the State of Minnesota, or if not, to his designated representative residing within the state, and such consular officer or his representative shall be the sole representative of such deceased employe and of such dependents to settle all claims for compensation and to receive for distribution to the persons entitled thereto, all compensation arising hereunder. The settlement and distribution of said funds shall be made only on order of the Commission. Such consular officer or his representative shall furnish, if required by the commission, a good and sufficient bond, satisfactory to the commission, conditioned upon the proper application of the moneys received by him. Before such bond is discharged, such consular officer or representative shall file with the commission a verified account of the items of his receipts and disbursements of such compensation.

Such consular officer or his representative shall, before receiving the first payment of such compensation, and thereafter, when so ordered so to do by the commission, furnish to the commission a sworn statement containing a list of the dependents with the name, age, residence, extent of dependency and relationship to the deceased of each dependent. ('21 c. 82 § 24)

4285. Payment in lump sum—The amounts of compensation payable periodically hereunder may be commuted to one or more lump sum payments only by order of the commission and on such terms and conditions as the commission may prescribe.

In making such commutations the lump sum payments shall, in the aggregate, amount to a sum equal to the present value of all future installments of compensation calculated on a six percent basis. ('21 c. 82 § 25)

146-286, 178+594; 148-333, 181+857; 149-339, 183+837; 187+703.

4286. Payment to trustee—At any time after the amount of any award or commutation has been finally determined by the commission, a sum equal to the present value of all future installments of the compensation calculated on a six percent basis may (where death or the nature of the injury renders the amount of future payments certain) by leave of the commission, be paid by the employer to any savings bank or

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09-NW 630

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245nw 619

trust company of this state to be approved and designated by the commission, and such sum, together with all interest thereon, shall, thereafter, be held in trust for the employe or the dependents of the employe, who shall have no further recourse against the employer. The payment of such sum by the employer, evidenced by receipt of the trustee, filed with the Industrial Commission, shall operate as a satisfaction of the compensation liability as to the employer. Payments from said fund shall be made by the trustee in the same amounts and at the same time as are herein required of the employer until said fund and interest shall be exhausted, excepting as the Commission shall otherwise order. In the appointment of the trustee, preference shall be given, in the discretion of the Industrial Commission, to the choice of the injured employe or the dependents of the deceased employe, as the case may be. ('21 c. 82 § 26)

134-191, 158+825; 136-148, 161+391.

4287. Compensation preferred claim—Assignment—Exemption—The right to compensation and all compensation awarded any injured employe or for death claims to his dependents, shall have the same preference against the assets of the employer as other unpaid wages for labor; but such compensation shall not become a lien on the property of third persons by reason of such preference.

Claims for compensation owned by an injured employe or his dependents, shall not be assignable and shall be exempt from seizure or sale for the payment of any debt or liability except as otherwise provided herein. ('21 c. 82 § 27)

4288. Employer to insure employes—Exceptions—Violations—Penalties—Every employer except the state and the municipal subdivisions thereof, liable under this act to pay compensation shall insure payment of such compensation with some insurance carrier authorized to insure such liability in this state unless such employer shall be exempted from such insurance by the Industrial Commission; provided that nothing herein contained shall prevent any employer with the approval of the Commission from excluding medical and hospital benefits as required in Section 19; provided, also, that an employer conducting distinct operations or establishments at different locations may either insure or self-insure each separate establishment, or operation and such other portion of his operations, which may be determined by the Industrial Commission to be a distinct and separate risk. An employer desiring to be exempted from insuring his liability for compensation, shall make application to the Industrial Commission, showing his financial ability to pay such compensation, whereupon the Commission by written order may make such exemption, as it deems proper. The Commission may, from time to time, require further statement of financial ability of such employer to pay compensation and may upon ten days' notice in writing revoke its order granting such exemption, in which case such employer shall immediately insure his liability. As a condition for the granting of an exemption, the Commission shall have authority to require the employer to furnish such security as it may consider sufficient to insure payment of all claims under compensation. Where the security is in the form of a bond or other personal guaranty, the Commission may, at any time, either before or after the entry of an award, upon at least ten days' notice, and opportunity to be heard, require the surety to pay the amount of the award, the same to be enforced in like manner as the award itself may be enforced.

Any employer who shall fail to comply with the provisions of this section to secure payment of compensation shall be liable to the State of Minnesota for

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175m 161
220nw 421
223nw 773

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231nw 193
4324
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178m 464
180m 388

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203-NW 62

4288
163-M 54
166-M 295
207-NW 634

4288-89
173m 354
217nw 358

4288-89
31 — 352

a penalty of fifty (\$50.00) dollars; and in addition thereto, if the employer continues his noncompliance, he shall be liable for five (5) times the lawful premium, as determined by the Compensation Insurance Board, for compensation insurance for such employer for the period he fails to comply with such provisions, commencing ten (10) days after notice has been served upon such employer by the Industrial Commission in the manner provided for the service of the summons in civil actions. Such penalties may be covered jointly or separately in a civil action brought in the name of the state by the attorney general in any court having jurisdiction thereof, and it shall be the duty of the Industrial Commission, whenever any such failure occurs, to immediately certify the fact thereof to the attorney general and upon receipt of such certification the attorney general shall forthwith commence and prosecute such action. All penalties recovered by the state hereunder shall be paid into the state treasury, to be credited to the special compensation fund. ('21 c. 82 § 28, amended '23 c. 282 § 1)

151-428, 186+860.

4289. Who may insure—Policies, etc.—Any employer who is responsible for compensation as provided under part 2 of this act may insure the risk in any manner then authorized by law. But those writing such insurance shall, in every case, be subject to the conditions of this section hereinafter named.

If the risk of the employer is carried by any insurer doing business for profit, or by an insurance association or corporation formed of employers, or of employers and workmen, to insure the risks under part 2 of this act, operating by the mutual assessment or other plan or otherwise, then insofar as policies are issued on such risks they shall provide for compensation for injuries or death, according to the full benefits of part 2 of this act.

Such policies shall contain a clause to the effect that as between the workman and the insurer, that notice to and knowledge by the employer of the occurrence of the injury shall be deemed notice and knowledge on the part of the insurer; that jurisdiction of the employer for any purpose shall be jurisdiction of the insurer, and that the insurer will, in all things, be bound by and subject to the awards rendered against such employer upon the risks so insured.

Such policies must provide that the workman shall have an equitable lien upon any amount which shall become owing on account of such policy to the employer from the insurer, and in case of the legal incapacity or inability of the employer to receive the said amount and pay it over to the workman or dependents, the said insurer will pay the same direct to said workman or dependents, thereby discharging all obligations under the policy to the employer, and all of the obligations of the employer and insurer to the workman; but such policies shall contain no provision relieving the insurance company from payment when the employer becomes insolvent or discharged in bankruptcy or otherwise, during the period the policy is in force, if the compensation remains owing.

The insurer must be one authorized by law to conduct such business in the state of Minnesota and authority is hereby granted to all insurance companies writing such insurance to include in their policies in addition to the requirements now provided by law, the additional requirements, terms and conditions in this section provided. No agreement by an employe to pay to an employer any portion of the cost of insuring his risk under this act shall be valid. But it shall be lawful for the employer and the workman to agree to carry the risk covered by part 2 of this act in conjunction with other and greater risks and providing

other and greater benefits such as additional compensation, accident, sickness or old age insurance or benefits, and the fact that such plan involves a contribution by the workman shall not prevent its validity if such plan has been approved in writing by the Industrial Commission. Any employer who shall make any charge or deduction prohibited by this section shall be guilty of a misdemeanor.

If the employer shall insure to his employes the payment of the compensation provided by part 2 of this act in a corporation or association authorized to do business in the state of Minnesota, and approved by the insurance commissioner of the state of Minnesota, and if the employer shall post a notice or notices in a conspicuous place or in conspicuous places about his place of employment, stating that he is so insured and stating by whom insured, and if the employer shall further file copy of such notice with the Industrial Commission, then, and in such case, any proceedings brought by an injured employe or his dependents shall be brought directly against the insurer, and the employer or insured shall be released from any further liability.

Provided that in case of insolvency or bankruptcy of such insurance company the employer shall not be released from liability under the provisions of this act.

The return of any execution upon any judgment of an employe against any such insurance company unsatisfied in whole or in part, shall be conclusive evidence of the insolvency of such insurance company, and in case of the adjudication of bankruptcy or insolvency of any such insurance company by any court of competent jurisdiction proceedings may be brought by the employe against the employer in the first instance, or against such employer and insurance company jointly or severally or in any pending proceedings against any insurance company, the employer may be joined at any time after such adjudication. ('21 c. 82 § 29, amended '23 c. 282 § 2)

4290. Certain persons liable as employers—Contractors—Sub-contractors, etc.—(1) Any person who creates or carries into operation any fraudulent scheme, artifice or device to enable him to execute work without himself being responsible to the workman for the provisions of this act, shall himself be included in the term "employer" and be subject to all the liabilities of the employers under this act. But this section shall not be construed to cover or mean an owner who lets a contract to a contractor in good faith nor a contractor, who, in good faith, lets to a subcontractor a portion of his contract. Provided, however, that no person shall be deemed a contractor or subcontractor, so as to make him liable to pay compensation within the meaning of this section, who performs his work upon the employers' premises and with the employers' tools or appliances and under the employers' directions; nor one who does what is commonly known as "piece work" or in any way where the system of employment used merely provides a method of fixing the workman's wages.

(2) Where compensation is claimed from, or proceedings taken against a person under subdivision 1 of this section, the compensation shall be calculated with reference to the wage the workman was receiving from the person by whom he was immediately employed at the time of the injury.

(3) The employer shall not be liable or required to pay compensation for injuries due to the acts or omissions of third persons not at the time in the service of the employer, nor engaged in the work in which the injury occurs, except as provided in Section 31, or un-

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213-NW

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4290
171m 15
240nw 464
See 4326

4291
246nw 527
4291
181m 232
240nw 890
4291
324
08-M 278
0-M
4291
6-NW 937
4291
-M 475
4291
1-NW 75
2-NW 20
2-NW 461
-G.S. 4274D
4291
177m 410
177m 579
225nw 391
225nw 901
225nw 911
227nw 47
4291
178m 313
231nw 233
232nw 114

der the conditions set forth in Section 66-J. ('21 c. 82 § 30)

128-47, 150+211.

4291. Liability of party other than employer—Procedure—(1) Where an injury or death for which compensation is payable under part 2 of this act is caused under circumstances also creating a legal liability for damages on the part of any party other than the employer, such party also being subject to the provisions of part 2 of this act, the employe, in case of injury, or his dependents in case of death may, at his or their option, proceed either at law against such party to recover damages, or against the employer for compensation under part 2 of this act, but not against both.

If the employe in case of injury, or his dependents in case of death, shall bring an action for the recovery of damages against such party other than the employer, the amount thereof, manner in which, and the persons to whom the same are payable, shall be as provided for in part 2 of this act, and not otherwise; provided, that in no case shall such party be liable to any person other than the employe or his dependents for any damages growing out of or resulting from such injury or death.

If the employe or his dependents shall elect to receive compensation from the employer, then the latter shall be subrogated to the right of the employe or his dependents to recover against such other party, and may bring legal proceedings against such party and recover the aggregate amount of compensation payable by him to such employe or his dependents hereunder, together with the costs and disbursements of such action and reasonable attorney's fees, expended by him therein.

The provisions of Subdivision 1 of this section shall apply only where the employer liable for compensation under part 2 of this act, and the other party or parties legally liable for damages were engaged in the due course of business, (a) in furtherance of a common enterprise, or (b) the accomplishment of the same or related purposes in operation on the premises where the injury was received at the time thereof, and not otherwise.

(2) Where an injury or death for which compensation is payable under part 2 of this act is caused under circumstances also creating a legal liability for damages on the part of any party other than the employer, such party also being subject to the provisions of part 2 of this act but where the provisions of subdivision 1 of this section do not apply or where said party or parties other than the employer are not subject to the provisions of part 2 of this act legal proceedings may be taken by the employe or dependents against such other party or parties to recover damages, notwithstanding the payment by the employer or his liability to pay compensation hereunder, but in such case if the action against such other party or parties is brought by the injured employe, or in case of his death, by his dependents, and a judgment is obtained and paid or settlement is made with such other party either with or without suit, the employer shall be entitled to deduct from the compensation payable by him, the amount actually received by such employe or dependents after deducting costs, reasonable attorney's fees and reasonable expenses incurred by such employe or dependents in making such collection or enforcing such liability; provided that in such case action be not diligently prosecuted by the employe or if, for any reason, the Court deem it necessary or advisable in order to protect the interests of the employer, the Court may upon application grant the right to the employer to intervene in any such action for the prosecution thereof, as now provided by law; provided that

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if the injured employe or in case of his death, his dependent shall agree to receive compensation from the employer or shall institute proceedings to recover the same or accept from the employer any payment on account of such compensation, such employer shall be subrogated to all of the rights of such employe or dependents and may maintain or, in case an action has already been instituted may continue the action either in the name of the employer or dependents or in his own name, against such other party for the recovery of damages, provided that in such case, if such action be not diligently prosecuted by the employer or if, for any reason, the Court deem it necessary or advisable in order to protect the interest of the employe, the Court may, upon application, grant the right to the employe or his dependents, as the case may be, to intervene in any such action for the prosecution thereof, as now provided by law, but such employer shall nevertheless pay over to the injured employe or dependents all sums collected from such other party or parties by judgment or otherwise in excess of the amount of such compensation payable by the employer under part 2 of this act, and costs, reasonable attorney's fees and reasonable expenses incurred by such employer in making such collection and enforcing such liability provided that in no case shall such party be liable to any person other than the employe or his dependents for any damages growing out of or resulting from such injury or death. ('21 c. 82 § 31, amended '23 c. 279 § 1)

132-346, 157+506; 136-154, 161+388; 143-131, 173+407; 144-108, 174+727; 144-166, 175+104; 144-315, 175+695; 145-380, 176+174; 148-41, 180+778; 149-340; 183+837, 185+949; 151-436, 186+863; 187+610.

4292. Penalties for unreasonable delay—In any case where any proceeding has been instituted or carried on or any defense interposed by any employer or insurer liable to pay compensation hereunder, which does not present a real controversy but is merely frivolous or for delay, or where there has been any unreasonable or vexatious delay of payment, or neglect or refusal to pay, or intentional underpayment of any compensation due to any employe or dependent under part 2 of this act, the industrial commission or the Supreme Court on appeal may, after reasonable notice and hearing or opportunity to be heard, as in cases of dispute arising under part 2 of this act, award, in addition to the compensation payable or to become payable, an amount equal to not more than twenty-five per centum of the compensation payable or to become payable as aforesaid. To secure information as to any act or omission specified in this section the Industrial Commission, by itself or employe, may examine from time to time the books and records of any employer or insurance carrier, relative to the payment of compensation hereunder, or require any such employer or insurance carrier to furnish any other information relating to the payment of compensation hereunder. In case of an insurer persisting in any act or omission hereinbefore specified in this section, or refusing or failing to allow the Industrial Commission to examine its books and records or to furnish such information, the Industrial Commission shall make complaint in writing to the insurance commissioner, setting forth the facts and recommending the revocation of the license of such insurer to do business in this state, whereupon the commissioner of insurance shall hear and determine the matter as provided in chapter 508 of the General Laws of Minnesota for 1919; and if any such charge is found true, the commissioner of insurance shall revoke the license of such insurer and thereafter it shall be unlawful for such

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insurer to write or effect insurance in this state. ('21 c. 82 § 32)

4293. Employers must report accidents—Reports—Duty of physicians—Penalties—It is hereby made the duty of every employer subject to the provisions of part 2 of this act to make or cause to be made a report to the Industrial Commission of any accident to any employe which occurs in the course of his employment, and which causes death or serious injury within forty-eight (48) hours of the occurrence of such accident, and of all other accidents which occur to any employe in the course of his employment, and of which the employer or his foreman has knowledge within seven days after the occurrence of such accident, provided that such injuries are sufficient wholly or partially to incapacitate the person injured from labor or service for more than the remainder of the day, shift or turn on which the injury was sustained, which reports shall be made upon a form to be prescribed by the Industrial Commission.

The Industrial Commission shall include in the form of report prepared by it a statement that the employer will pay the compensation as required by law, to be signed by the employer, or his representative, where a liability to pay compensation is admitted.

Accidents required by this section to be reported within 48 hours may be reported by telephone, telegraph or personal notice and a written report of such accident shall then be made within seven days, or at such time as the Industrial Commission shall designate, and the Commission may require such supplementary reports of any accident as it may deem necessary for the securing of the information required by law, provided that when an accident has been reported which subsequently terminates fatally, a supplemental report shall be filed with the Industrial Commission within forty-eight (48) hours after receipt of knowledge of such death, stating that the injury has proved fatal and any other facts in connection with such death or as to the dependents of such deceased employe which the Industrial Commission may require.

Every physician or surgeon who shall examine, treat or have special knowledge of any injury to any employe compensable under part 2 of this act shall within ten days after receipt of any request therefor, in writing, made by the Industrial Commission, report to the Commission all facts within his knowledge relative to the nature and extent of any such injury and the extent of any disability resulting therefrom, upon a form to be prescribed by the Commission.

It is hereby made the duty of the Industrial Commission from time to time and as often as may be necessary, to keep itself fully informed as to the nature and extent of any injury to any employe compensable under part 2 of this act and the extent of any disability resulting therefrom and the rights of such employe to compensation, to request in writing and procure from any physician or surgeon examining, treating or having special knowledge of any such injury, a report of the facts within his knowledge relative thereto.

Any employer or physician or surgeon who shall fail to make any report required by this section, in the manner and within the time herein specified, shall be liable to the state of Minnesota for a penalty of fifty (\$50.00) dollars for each such failure and such penalty shall be recovered in a civil action brought in the name of the State by the Attorney General in any court having jurisdiction thereof, and it shall be the duty of the Industrial Commission, whenever any such failure to report occurs, to immediately certify the fact thereof to the Attorney General, and upon receipt of any such certification the Attorney General shall

forthwith commence and prosecute such action. All penalties recovered by the State hereunder shall be paid into the state treasury.

No such report nor part thereof, nor any copy of the same or part thereof shall be open to the public, nor shall any of the contents thereof be disclosed in any manner by any official or clerk or other employe or person having access thereto, but the same may be used upon the hearings under this act or for state investigations and for statistics, only, and any such disclosure is hereby declared to be a misdemeanor and punishable as such. ('21 c. 82 § 33)

4294. Duties of commission when employe is injured—On receipt of notice or information that an employe governed by part 2 of this act has sustained an injury which may be compensable, the Industrial Commission shall forthwith mail to such employe, if his postoffice address be known or ascertainable, a written or printed notice in the form of a letter, giving a brief statement in simple language of such employe's general rights and duties under this act. In addition to such other matters as in the discretion of the Commission may be incorporated in this notice, it shall summarize the employer's duty to furnish medical and hospital treatment, and to pay compensation, and shall, also, invite such employe to ask the advice of the Commission in case any doubt or dispute arises concerning his rights under this act on account of such injury. The notice shall be accompanied by an envelope addressed to the Industrial Commission, for use by the employe in making any reply. ('21 c. 82 § 34)

4295. Employer shall notify commission of discontinuance of payments—Before discontinuing the payment of compensation in any case coming under part 2 of this act, the employer shall, if it is claimed by or on behalf of the injured person or his dependents that his right to compensation still continues, or if such employe or dependents shall refuse to sign or object to signing a final receipt, notify the Industrial Commission, in writing, of such proposed discontinuance of payment, with the date of the discontinuance and the reason therefor, and that the employe or dependent, as the case may be, objects thereto, and until such notice is given as aforesaid, the liability for and the making of such payments shall continue unless otherwise ordered by the Commission; provided that the receipt of any such notice of discontinuance by the Commission, as herein provided, shall operate as a suspension of payment of compensation until the right thereto can be investigated, heard and determined, as herein provided. It is hereby made the duty of the Industrial Commission forthwith, upon receipt of any such notice of discontinuance, to notify the employe of the receipt thereof and mail him a copy of the same at his last known place of residence, and to make such investigations and inquiries as may be necessary to ascertain and determine whether the right to compensation in any such case has terminated in accordance with law, and if upon investigation, it shall appear that the right to compensation in any such case has not terminated, or will not terminate upon the date specified in any such notice of discontinuance, the Industrial Commission shall set down for hearing before the Commission or some Commissioner or referee, the question of the right of the employe, or dependent, as the case may be, to further compensation, such hearing to be held within twenty-five (25) days of the receipt by the commission of any such notice of discontinuance, and eight (8) days' notice of such hearing shall be given by the Commission to the interested parties.

After the hearing by the Commission, commissioner or referee, and due consideration of all the evidence

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submitted, the Commission, commissioner or referee, shall promptly enter an order or award for such further amount of compensation to be paid by the employer, if any, as may be due and payable. If upon investigation it shall appear that the right to compensation in any such case has terminated, the Commission shall forthwith notify the employer in writing of such fact and the receipt of such notice by the employer shall operate to relieve him and the insurance carrier, as of the date when payment of compensation became suspended as provided by this section, from any further liability for payment of compensation in such case, subject to the right of review provided by this act.

In addition to the filing of the reports required by law, all employers subject to part 2 of this act shall promptly file or cause to be filed with the Industrial Commission all current interim and final receipts for the payments of compensation made, and it is hereby made the duty of the Industrial Commission periodically to check the records of such commission in each case, and require such employers to file or cause to be filed all such receipts for compensation payments as and when due, it being the intention of this section that the Industrial Commission shall definitely supervise and require prompt and full compliance with all provisions for the payment of compensation as required by law. Any insurance carrier insuring any employer in this State against liability imposed by this Act shall be and hereby is authorized and empowered for and on behalf of said employer to perform any and all acts required of the employer under the provisions of this Act; provided, that the employer shall be responsible for all authorized acts of an insurer in his behalf and for any omission or delay or any failure, refusal or neglect of any such insurer to perform any such act, and nothing herein contained shall be construed to relieve the employer from any penalty or forfeiture provided by this Act. ('21 c. 82 § 35)

4296. Commission may advise—Shall report to legislature—The Industrial Commission may, upon demand of an employer or an employe or his dependent designate one or more of its employes who shall advise such party or parties of his or their rights under this act, and shall assist so far as possible in adjusting the differences between the employe or his dependents and the employer under part 2 hereof and the employe or employes of the Commission so designated are hereby empowered to appear in person before the Commission, Commissioner or referee in any proceeding under part 2 of this act, as the representative or advisor of any such party; and in any such case, such party shall not be required to be also represented by an attorney at law.

The Industrial Commission shall observe in detail the operation of the act throughout the state and shall make report thereof to each session of the legislature, together with such suggestions and recommendations as to changes as it may deem necessary or advisable for the improvement thereof. ('21 c. 82 § 36)

4297. Proceeding begun by petition—All proceedings before the Industrial Commission shall be by petition addressed to the Commission. All petitions shall be in writing and in such form as may be prescribed by the commission, except as otherwise provided by this act. ('21 c. 82 § 37)

4298. Papers filed in main office—All papers to be filed or acted upon by the Industrial Commission shall be delivered to it at its principal office, except as the Commission may otherwise order. ('21 c. 82 § 38)

4299. Papers shall be filed immediately—All papers delivered to the Industrial Commission for filing under the provisions of this act or the rules and regulations

of the Commission shall be immediately filed. ('21 c. 82 § 39)

4300. Orders and decisions filed—Every order, decision or award made by any commissioner or referee shall be forthwith filed with the Industrial Commission, and the Commission shall immediately serve or cause to be served upon every party in interest a copy of every order, decision or award made by it or him, together with a notification of the time when the same was filed. ('21 c. 82 § 40)

4301. Service by mail—All papers and notices to which any party shall be entitled under part 2 of this act shall be served by mail, or in such other manner as the Industrial Commission may direct. Any such paper or notice shall be deemed served on the date when mailed, properly stamped and addressed, and shall be presumed to have reached the party to be served; but any party may show by competent evidence that any paper or notice was not received, or that there was an unusual or unreasonable delay in its transmission through the mails. In such case proper allowance shall be made for the party's failure within the prescribed time to assert any right given him by this act. The Industrial Commission, its secretary, and any commissioner or referee, serving or causing to be served any such paper or notice shall keep a careful record of such service. ('21 c. 82 § 41)

4302. Procedure in case of dispute—In cases of dispute as to any question of law or fact in connection with any claim for compensation, either party, or in case of default for a period of at least ten (10) days, in payment of compensation due and payable, the person or persons entitled thereto may present a verified petition to the Industrial Commission setting forth in addition to such other facts as the rules of the Commission may require, the names and residences of the parties and the facts relating to employment at the time of injury, the injury, its extent and character, the amount of wages being received, the knowledge of the employer or notice of the occurrence of said injury, and such other facts as may be necessary and proper for the information of the Commission, and shall state the matter or matters in dispute and the contention of the petitioner with reference thereto. ('21 c. 82 § 42)

4303. Commission to give hearing on claim petition—When a claim petition or other petition is presented to the Industrial Commission, the Commission shall, by general rules or special order, either direct it to be heard by the Commission or assign it to a commissioner or a referee for hearing: Provided, that petitions to commute further compensation payments shall be heard by the Commission.

The Secretary of the Commission shall within ten days after the same is presented serve upon each adverse party a copy of the petition, together with a notice that the petition will be heard by the Commission or the commissioner or referee to whom it has been assigned (giving his name and address) as the case may be, and if the petition shall be assigned to a commissioner or a referee, shall deliver the original petition to him with copies of the notices served on the adverse parties. ('21 c. 82 § 43)

4304. Rehearing—Any time before an award or disallowance of compensation or order has been made by a commissioner or referee to whom a petition has been assigned, the Commission may order such petition heard before it or may reassign it to another commissioner or referee. Unless the Commission shall otherwise order, the testimony taken before the original commissioner or referee shall be considered as though taken before the Commission or substituted commissioner or referee. ('21 c. 82 § 44)

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4305. Answer to petition—Within ten days after a copy of any petition has been served on the adverse party, he may file with the Industrial Commission and serve upon the petitioner or his attorney, a verified answer to the petition, which shall admit or deny the substantial averments of the petition and shall state the contention of such adverse party with reference to the matter in dispute as disclosed by the petition. Within five days after the service of the answer, the petitioner may file with the Commission and serve on the adverse party or his attorney, a verified reply, admitting or denying the matter set forth in the answer.

Every fact alleged in a petition not specifically denied by an answer so filed by an adverse party shall be deemed to be admitted by him. But the failure of any adverse party or of all of them to deny a fact so alleged shall not preclude the Commission, commissioner or referee before whom the petition is heard from requiring, of its or his own motion, proof of such fact. ('21 c. 82 § 45)

4306. Commission to fix time and place of hearing—When the reply has been filed or the time in which to file a reply has expired, the commission shall fix a time and place for hearing said petition not less than ten (10) days after the filing of the reply or the expiration of the time within which a reply can be filed. Notice of such hearing shall be given by mailing a copy to the interested parties not less than five days before the date fixed for such hearing. Such hearing may be had before the commission, or before a commissioner or referee designated by the secretary by written order, copy of which said written order shall be mailed to the commissioner or referee so designated. All hearings shall be held in the county where the injury occurred unless otherwise ordered by the commission or the commissioner or referee conducting the hearing. The secretary, if the petition has been directed to be heard by the commission, or the commissioner or referee to whom the petition has been assigned, shall serve upon all parties in interest a notice of the time and place of hearing, at least five days prior to such hearing. ('21 c. 82 § 46, amended '23 c. 300 § 9)

4307. Award by default—Upon failure of an adverse party in any case to serve and file an answer as provided by this act, the commission, upon proof of service of the petition and failure to answer being made and filed with the commission, shall forthwith make an award based upon the petition, if the facts stated therein are sufficient to support the same, of such compensation as the claimant is shown thereby to be entitled to; provided, that the commission may require proof of any fact alleged in the petition, and, in such case, the commission shall promptly and summarily hear and determine the matter and promptly make its award. If the petition does not state facts sufficient to support an award, the commission shall promptly notify the petitioner or his attorney of such fact in writing, and another petition may be filed as in the case of an original petition. ('21 c. 82 § 47)

4308. Commission shall administer oaths and issue subpoenas—The Industrial Commission by a member, or the commissioner or referee to whom a cause may be assigned by the commission for hearing, shall administer oaths to all witnesses, and, upon its or his own motion or the written request of any interested party, may issue subpoenas for the attendance of witnesses and the production of such books, papers, records and documents, material in the cause as shall be designated in such request or required by the commission, commissioner or referee. Provided, that the applicants for subpoenas shall advance necessary service and witness fees, which shall be the same as the service and witness fees provided by law for civil causes in the

district court; the Industrial Commission shall pay for the attendance of all witnesses subpoenaed by it on its own motion. If any person refuses to comply with any order or subpoena issued by the commission, or by any commissioner or referee in a cause assigned to him by the commission, or if any person refuses to permit an inspection of any place or premises or to produce any books, papers, records or documents, material in the cause, or if any witness refuses to appear or testify regarding that which he may be lawfully interrogated, any judge of the district court in the county in which the cause is pending, on application of the commission, or the commissioner or referee hearing the cause, shall compel obedience by attachment proceedings as for contempt as in the case of disobedience of a similar order or subpoena issued by such court. ('21 c. 82 § 48)

4309. Commission to make award—Who may intervene—The Industrial Commission, if a petition is directed to be heard by it, or the commissioner or referee to whom a petition is assigned for hearing, shall hear all competent evidence produced and shall make, in writing, and as soon as may be after the conclusion of the hearing, such findings of fact, conclusions of law, and award or disallowance of compensation or other order, as the pleadings and the evidence produced before it or him and the provisions of this act shall, in its or his judgment require. Any person having such an interest in any matter before the commission, a commissioner or referee, that he may either gain or lose by any order or decision relating thereto, shall, upon written application to the commission, commissioner or referee, setting forth the facts which show such interest, be permitted to intervene under such rules and regulations as the commission may prescribe. ('21 c. 82 § 49)

4310. Commission may appoint referee—The Industrial Commission may refer any question of fact arising under any petition, including a petition for commutation of compensation heard by it, to a commissioner or referee to hear evidence and report to the commission the testimony taken before him or such testimony and findings of fact thereon as the commission may order. The commission may refer any question of fact arising under any petition assigned to a commissioner or referee, to another commissioner or referee to hear evidence, and report the testimony so taken thereon to the original commissioner or referee. ('21 c. 82 § 50)

4311. Commission or referee may make investigation—The Industrial Commission, commissioner or referee, if it or he deem it necessary, may, of its or his own motion, either before, during or after any hearing, make an investigation of the facts set forth in the petition or answer. The commission, or a commissioner, or referee, with the consent of the commission, may appoint one or more impartial physicians or surgeons to examine the injuries of the claimant and report thereon, and may employ the services of such other experts as shall appear necessary to ascertain the facts. The report of any physician, surgeon or expert appointed by the commission or by a commissioner or referee shall be filed with the commission and shall be a part of the record and open to inspection as such.

The commission shall fix the compensation of such physicians, surgeons and experts, which when so fixed, shall be paid out of the funds appropriated to the department of labor and industries for the maintenance of the department, and shall be taxed as a part of the costs of the proceedings to be repaid to such department by either party or both, or otherwise, as the commission may direct. If any sum so taxed shall not be

paid by the party directed to repay, the same may be collected as costs are now collectible. ('21 c. 82 § 51)

4312. Hearings shall be public—All hearings before the commission, a commissioner or a referee shall be public. ('21 c. 82 § 52)

4313. Commission not bound by rules of evidence—The commission, or a commissioner, or a referee, in making an investigation or conducting a hearing under this act, shall not be bound by common law or statutory rules of evidence or by technical or formal rules of pleading or procedure, except as provided by this act; and shall make such investigation or inquiry or conduct such hearing in such manner as to ascertain the substantial rights of the parties. But all findings of fact shall be based only upon competent evidence. ('21 c. 82 § 53)

4314. Depositions—Evidence—Depositions may be taken as now provided by law for civil cases, except as otherwise ordered by the commission, commissioner or referee. The records kept by a hospital of the medical or surgical treatment given to an employe in such hospital shall be admissible as evidence of the medical and surgical matters stated therein, but shall not be conclusive proof of such matters. ('21 c. 82 § 54)

4315. Appeal—Expense—Transcript—Any party in interest may, within twenty days after notice of a commissioner's or referee's award or disallowance of compensation, or other order involving the merits of the case, shall have been served on him, take an appeal to the Industrial Commission on the ground: (1) That the award or disallowance of compensation or other order appealed from is not in conformity with the terms of this act, or that the commissioner or referee committed any other error of law; (2) that the findings of fact and award or disallowance of compensation, or other order appealed from was unwarranted by the evidence, or was procured by fraud, coercion or other improper conduct of any party in interest. The commission may, upon cause shown, within thirty days after such notice has been served as aforesaid, extend the time for taking such appeal or for filing of an answer or other pleading.

Any party desiring to appeal to the commission as aforesaid, shall prepare and sign a written notice specifying the award or order appealed from, and that the said appellant appeals therefrom to the Industrial Commission, and specifying the particular finding of fact which appellant claims is unwarranted by the evidence of which appellant claims was procured by fraud, coercion or other improper conduct of any party in interest, or specifying any other ground upon which the appeal is based. The appealing parties shall also serve a copy of such written notice of appeal upon all adverse parties within the time limited for appeal, and file the original thereof with the Industrial Commission with proof of service thereon by admission or affidavit. The appealing parties shall also pay to the Industrial Commission the sum of ten (\$10.00) dollars to be applied on the cost of the transcript of the proceedings appealed from, or so much thereof as may be necessary to present the question raised on such appeal. The appellant shall also be liable for any excess of said ten (\$10.00) dollars in the cost of said transcript and any part of said sum exceeding the actual cost of said transcript shall be refunded to said appellant; provided that the commission may on cause shown direct that a transcript be made without expense to the appellant.

Upon the filing of said notice and the paying of said appeal fee, the commission shall immediately cause the transcript of testimony and proceedings to be typewritten, which said transcript shall be certified as true and correct by the official reporter transcribing the same.

On any such appeal the commission may disregard the findings of fact of the commissioner or referee, and may examine the testimony taken before such commissioner or referee, and if it deem proper, may hear other evidence, and may substitute for the findings of the commissioner or referee such findings of fact as the evidence taken before the commissioner or referee and the commission, as hereinbefore provided, may, in the judgment of the commission, require, and may make such disallowance or award of compensation or other order as the fact so found by it may require. The commission, at its expense, shall cause a complete record of its proceedings to be made and shall provide a stenographer to take the testimony and record of proceedings at the hearings before a referee, commissioner or the commission, and said stenographer shall furnish a transcript of such testimony or proceedings to any person requesting it upon payment to him of a reasonable charge therefor to be fixed by the commission. ('21 c. 82 § 55, amended '23 c. 300 § 10)

4316. Appeal based on error—Whenever an appeal to the commission shall be based upon an alleged error of law, it shall be its duty to grant a hearing thereon. The commission shall fix a time and place for such hearing, and shall give at least five days' notice thereof in writing to all parties in interest. As soon as may be after any such hearing, the commission shall either sustain or reverse the commissioner or referee's award or disallowance of compensation, or other order appealed from or make such modification thereof as it shall deem proper. ('21 c. 82 § 56)

4317. Appeal based on fraud or insufficiency of evidence—Whenever an appeal shall be taken to the commission on the ground that the commissioner or referee's award or disallowance of compensation was unwarranted by the evidence, or because of fraud, coercion, or other improper conduct by any party in interest, the commission may, in its discretion, grant a hearing de novo before the commission or assign the petition for re-hearing to any commissioner or referee designated by it or sustain the commissioner or referee's award or disallowance of compensation. If the commission shall grant a hearing de novo, it shall fix a time and place for same, and shall give at least five days' notice in writing to all parties in interest. As soon as may be after any hearing de novo by the commission, it shall in writing state its findings of fact and award or disallow compensation in accordance with the provisions of this act. ('21 c. 82 § 57)

4318. Proceedings in case of default in payment of compensation—On at least thirty days' default in the payment of compensation due under any award made under part 2 of this act, the employe or dependents entitled to such compensation may file a certified copy of such award with the clerk of the district court of any county in the state, and on ten days' notice in writing to the adverse parties served as provided by law for service of a summons, may apply to the judge of any district court for judgment thereon. On such hearing the judge of such court shall have the right to determine only the facts of said award and the regularity of the proceedings upon which said award is based, and shall order judgment accordingly; and such judgment shall have the same force and effect, and may be vacated, set aside or satisfied as other judgments of the same court; provided, that no judgment shall be entered on an award while an appeal is pending. There shall be but one fee of 25 cents charged by said clerk for services in each case under this section, and said fee shall cover all services performed by him. ('21 c. 82 § 58, amended '23 c. 300 § 11)

4319. New hearing may be granted—At any time after an award has been made and before the same has been reduced to judgment or writ of certiorari issued

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by the Supreme Court, the commission may for cause, upon application of either party and not less than five days' notice in writing to all interested parties, set the award aside and grant a new hearing and thereon determine the matter on its merits and make such findings of fact, conclusions of law, and award or disallowance of compensation or other order, as the pleadings and the evidence produced before it and the provisions of this act shall in its judgment require. ('21 c. 82 § 59, amended '21 c. 423 § 1)

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4320. Appeal to Supreme Court—Grounds—Fees— Any party in interest may, within thirty days after the service of notice on him of any award or disallowance of compensation or order involving the merits of the case or any part thereof made by the commission, have the same reviewed on certiorari by the Supreme Court on any of the following grounds: (1) That the award or disallowance of compensation or other order sought to be reviewed is not in conformity with the terms of the act, or that the commission committed any other error of law; (2) that the findings of fact and award or disallowance of compensation or other order sought to be reviewed was unwarranted by the evidence. The Supreme Court may, upon cause shown within said thirty (30) days, extend the time provided in this section for review on certiorari, or for filing any paper required to be filed in such court. To render certiorari effective, the petitioner or relator shall, within thirty days after notice of such final award or disallowance or other order, serve upon the Industrial Commission a writ of certiorari showing that a review is to be had in the Supreme Court of the proceedings of the commission, on which such final award or disallowance of compensation is based, together with a bond with such surety or sureties, and in such amount as the commission or commissioner shall direct and approve, conditioned to pay the cost of such review. The petitioner or relator shall also pay to the secretary of the Industrial Commission \$10.00, to be paid, in turn, by such secretary to the clerk of the Supreme Court as the filing fee provided by Chapter 177 of Laws 1915. On serving of such writ of certiorari and filing bond and the payment of the amount aforesaid, the secretary of the commission shall immediately transmit to such clerk the filing fee aforesaid, together with the return to such writ of certiorari and bond. The receipt by the clerk of such fee and the filing of such return shall vest the Supreme Court with jurisdiction of the matter. Within thirty days from receipt of the amount aforesaid and filing with the commission of the return to writ of certiorari and bond, the secretary shall transmit to the clerk of the Supreme Court a true and complete return of the proceedings of the commission in the cause sought to be reviewed, or such parts thereof as may be necessary to enable the Supreme Court properly to review the questions presented to it. Such return shall be certified to by the secretary under the seal of the commission, and the petitioner or relator shall pay to the secretary the reasonable expense of preparing the return. On the filing of the return in the Supreme Court, the matter shall be heard and disposed of in accordance with the laws and rules of the court governing civil appeals. The Supreme Court may adopt such rules not inconsistent with the provisions of this act as may be deemed necessary or convenient for the impartial and speedy disposition of such matters. ('21 c. 82 § 60, amended '21 c. 423 § 2; '23 c. 300 § 12)

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4321. Supreme Court to have original jurisdiction—The Supreme Court, on review taken under the preceding section, shall have and take original jurisdiction and may reverse, affirm or modify the award or order of disallowance reviewed and enter such judgment

as may be just and proper; and where necessary, may remand the cause to the Industrial Commission for a new hearing or for further proceedings, with such directions as the court may deem proper. ('21 c. 82 § 61, amended '21 c. 423 § 3)

4322. Writ to stay proceedings—A writ perfected under the provisions of this act shall stay all proceedings for the enforcement of collection of the award sought to be reviewed, or any part thereof, until the final disposition of the cause in the Supreme Court or before the Industrial Commission when the cause is remanded for a new hearing or further proceedings. ('21 c. 82 § 62, amended '21 c. 423 § 4)

4323. Attorney general to appear for commission—On all such reviews the attorney general shall, unless otherwise directed by the commission, appear as attorney for the Industrial Commission, and he shall prepare and present to the Supreme Court such papers, briefs and arguments as he shall deem proper and necessary to a fair presentation of the questions involved, in support of the award or order of disallowance sought to be reviewed. ('21 c. 82 § 63, amended '21 c. 423 § 5)

4324. Costs not allowed—Prevailing party may be allowed expenses—No costs shall be awarded against either party in hearings before the commission, commissioner or referee, except as specially provided by this act, but in the discretion of the Industrial Commission, commissioner or referee conducting a hearing, or in the discretion of the commission in an appeal to it, the prevailing party may be awarded reimbursement for actual necessary disbursements, to be taxed and allowed by the commission, commissioner or referee on five days' notice in writing to the adverse party. The commission in affirming or modifying and affirming or reversing a disallowance and allowing an award may include in such award reasonable attorney's fees incident to review on certiorari. On writs of certiorari the Supreme Court costs and disbursements shall be taxed the same as on civil appeals. Provided, that if upon such review by the Supreme Court any award in favor of the injured employe or his dependents is affirmed or modified and affirmed or if the disallowance is reversed, the court may allow reasonable attorney's fees incident to such review, which shall be included as a part of the judgment order of the Supreme Court. ('21 c. 82 § 64, amended '21 c. 423 § 6)

4325. Definitions—"Daily wage" as used in this act shall mean the daily wage of the employe in the employment in which he was engaged at the time of the injury, and if at the time of the injury the employe is working on part time for the day, his daily wage shall be arrived at by dividing the amount received or to be received by him for such part time service for the day by the number of hours of such part time service and multiplying the result by the number of hours of the normal working day for the employment involved.

The weekly wage shall be arrived at by multiplying the daily wage by the number of days and fractional days normally worked in the business of the employer for the employment involved; provided, that the weekly wage shall not be less than five and one-half times the daily wage. Occasional overtime shall not be considered in computing the weekly wage, but if such overtime is regular or frequent throughout the year for the employment involved, then it shall be taken into consideration.

Where board or other allowances of any character except gratuities are made to an employe in addition to wages as a part of the wage contract, they shall be deemed a part of his earnings and computed at the value thereof to the employe. ('21 c. 82 § 65, amended '23 c. 300 § 13)

4324
161-M 471
4324
25 - 161
211-NW 674
23-G.S. 4267
4325-26
166-M 251
207-NW 636
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25 - 17
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163-M 37
171-M 40
204-NW 4
214-NW 26
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161-M 2

WORKMEN'S COMPENSATION ACT

169-M 170-M 183 278 210-NW 1004 § 4326

4326 164-M 358 4326 160-M 185 238nw 676 461 493 442 258 4326G2 234nw 452 4326G2 183 278 210-NW 1004 § 4326

4326D 155-M 269 193-NW 450 4326-H 157-M 126 195-NW 784 4326-J 157-M 430 158-M 498 196-NW 477 198-NW 290 202-NW 485 4326D 176m 422 229nw 561 228nw 935 222m 275 223m 772 09-NW 644 210-NW 1004 211-NW 327 168-M 69 4326L 53-M 225 54-M 338 90-NW 256 91-NW 924 4326B 239nw 673 4326D 240nw 464 See 4290 4326F 234nw 452 4268

4326G1 212-NW 461

4326. Definitions, continued—Throughout this act the following words and phrases as used therein shall be considered to have the following meaning respectively, unless the context shall clearly indicate a different meaning in the connection used:

(a) The word "compensation" has been used both in parts 1 and 2 of this act to indicate the money benefits to be paid on account of injury or death. Strictly speaking, the benefit which an employe may receive by action at law under part 1 of this act is damages, and this is indicated in section 1. To avoid confusion, the word "compensation" has been used in both parts of the act, but it should be understood that under part 1 the compensation by way of damages is determined by an action at law.

(b) "Child" or "children" shall include posthumous children and all other children entitled by law to inherit as children of the deceased, also stepchildren who were members of the family of the deceased at the time of his injury and dependent upon him for support.

(c) The terms "husband" and "widower", are used interchangeably and have the same meaning in this act.

(d) The term "employer" as used herein, shall mean every person not excluded by section 8, who employs another to perform a service for hire and to whom the "employer" directly pays wages, and shall include any person or corporation, co-partnership or association or group thereof, and shall include state, county, village, borough, town, city, school district and other public employers.

(e) The term "physician" shall include "surgeon," and in either case shall mean one authorized by law to practice his profession within one of the United States and in good standing in his profession at the time.

(f) The term "workman" shall include the plural and all ages and both sexes.

(g) The terms "employe" and "workman" are used interchangeably and have the same meaning throughout this act and shall be construed to mean:

(1) Every person in the service of the state, or any county, city, town, village, borough or school district therein, under any appointment or contract of hire, expressed or implied, oral or written, but shall not include any official of the state or of any county, city, town, village, borough or school district therein, who shall have been elected or appointed for a regular term of office or to complete the unexpired portion of any regular term; provided, however, that sheriffs, deputy sheriffs, constables, marshals, policemen and firemen shall be deemed employes within the meaning of this section; provided further, that where in any city operating under a Home Rule Charter, a mode and manner of compensation is provided by said charter which is different from that provided by this act, and the amount of compensation provided by said charter would, if taken thereunder, exceed the amount the employe is entitled to under this act for the same period, he shall, in addition to his compensation under this act, receive under said charter an amount equal to the excess in compensation provided by said charter over what he is entitled to by this act; if the amount of compensation provided by said charter would, if taken thereunder, be equal to or less than the amount of compensation the employe is entitled to under this act for the same period, he shall take only under this act; provided further, that any peace officer other than a sheriff, deputy sheriff, marshal or policeman shall be considered an employe while engaged in the enforcement of peace or in and about the pursuit and capture of any person charged with or suspected of crime.

(2) Every person not excluded by section 8, in service of another under any contract of hire, expressed or implied, oral or written, including aliens, and also including minors who are legally permitted to work under the laws of the state, who, for the purpose of making election of remedy under this act, shall be construed the same, and have the same power of contracting and electing as adult employes.

(h) The word "accident" as used in the phrases "personal injuries due to accident" or "injuries or death caused by accident" in this act shall, unless a different meaning is clearly indicated by the context, be construed to mean an unexpected or unforeseen event, happening suddenly and violently, with or without human fault, and producing at the time injury to the physical structure of the body.

(i) "Member" as an anatomy term in this act, shall include eye and ear, as well as leg, foot, toe, hand, finger, thumb and arm.

(j) Without otherwise affecting either the meaning or interpretation of the abridged clause "personal injuries arising out of and in the course of employment." It is hereby declared:

Not to cover workmen except while engaged in, on, or about the premises where their services are being performed, or where their services requires their presence as a part of such service, at the time of the injury, and during the hours of service as such workmen; provided, that where the employer regularly furnishes transportation to his employes to or from the place of employment, such employes shall be held to be subject to this act while being so transported, but shall not include an injury caused by the act of a third person or fellow employe intended to injure the employe because of reasons personal to him, and not directed against him as an employe, or because of his employment.

(k) Wherever in this act the singular is used, the plural shall be included; where the masculine gender is used, the feminine and neuter shall be included.

(1) "Industrial Commission" and "Commission" as used in this act, means the Industrial Commission of Minnesota; and "Commissioner" means a member of that commission.

(m) The term "farm laborers" shall not include the employes of commercial threshermen or of commercial balers. Commercial threshermen and commercial balers are hereby defined to be persons going about from place to place threshing grain, shredding or shelling corn, or baling hay or straw, respectively, as a business; provided, that farmers owning threshing, shredding, shelling or baling machines not engaged in such business generally and doing their own threshing, shredding, shelling or baling or casually doing such work for other farmers in the same community, and farmers exchanging work among themselves shall not be classed as commercial threshermen or commercial balers. ('21 c. 82 § 66, amended '23 c. 91 § 1; '23 c. 300 § 14)

- Subd. (a) 134-21, 158+715; 134-25, 158+717. (b) 133-265, 158+250; 132-249, 156+120; 134-131, 158+798; 143-144, 172+897. (d) 128-43, 150+211; 133-402, 158+615; 145-185, 176+751; 147-13, 179+216. (g1) 134-26, 158+790; 137-24, 162+680; 145-185, 176+751; 148-40, 180+777. (g2) 133-109, 157+995; 142-141, 171+302. (h) 137-32, 162+679; 138-132, 164+585; 138-211, 164+810; 138-252, 164+916; 140-472, 168+555; 142-423, 172+312; 149-2, 182+622.

4327. Occupational diseases—How regarded—Compensation for—Definitions of—(1) The disablement of an employe resulting from an occupational disease described in sub-section (9) of this section, except where specifically otherwise provided, shall be treated as the happening of an accident within the meaning of Part

Sec. 1-2 243nw 706 246nw 373 177m 98 230nw 486 173m 504 173m 147 175m 368 218nw 126 218nw 555 221nw 430 224nw 459 166-M 41 167-M 475 207-NW 183 209-NW 635 4326J 174m 491 219nw 869 224nw 840 212-NW 46 165-M 45 209-NW 10 210-NW 5 211-NW 24 169-M 2 215-NW 6 215-NW 4326J 162-M 2 203-NW 4 206-NW 7 4326J 227nw 48 228nw 931 4326J 177m 197 178m 310 233nw 467 4326L 242nw 397 242nw 721 4326J 245nw 616 4326M 227nw 661 227nw 663 4327 161-M 24 4327 sub secs 9-10 173m 564 218nw 126 4327 247nw 235

2 of this act and the procedure and practice provided in such Part 2 shall apply to all proceedings under this section, except where specifically otherwise provided herein. Whenever used in this section, "disability" means the state of being disabled from earning full wages at the work at which the employe was last employed, and "disablement" means the act of becoming so disabled.

(2) If an employe is disabled or dies and his disability or death is caused by one of the diseases mentioned in sub-section (9) of this section, and the disease is due to the nature of the corresponding employment as described in such sub-section in which such employe was engaged and was contracted therein, he or his dependents shall be entitled to compensation for his death or for the duration of his disability according to the provisions of Part 2 of this act, except as otherwise provided in this section; provided, however, that if it shall be determined that such employe 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.

(3) Neither the employe nor his dependents shall be entitled to compensation for disability or death resulting from disease unless the disease is due to the nature of his employment and contracted therein within the twelve months previous to the date of disablement, whether under one or more employers.

(4) If an employe at the time of his employment, wilfully and falsely represents in writing that he has not previously suffered from the disease which is the cause of disability or death, no compensation shall be payable.

(5) The total compensation due shall be recoverable from the employer who last employed the employe 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 employe was in the employment of a prior employer, the employer who is made liable for the total compensation as provided by this sub-section, may appeal to the commission for an apportionment of such compensation among the several employers who since the contraction of such disease shall have employed such employe in the employment to the nature of which the disease was due. Such apportionment shall be proportioned to the time such employe 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 commission find that any portion of such compensation is payable by an employer prior to the employer who is made liable to the total compensation as provided by this sub-section, it 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.

(6) The employer to whom notice of death or disability is to be given, or against whom claim is to be made by the employer shall be the employer who last employed the employe during the said twelve months in the employment to the nature of which the disease was due and in which it was contracted, and such notice and claim shall be deemed reasonable as against prior employers.

(7) The employe or his dependents, if so requested, shall furnish the last employer or the commission with such information as to the names and addresses of all his other employers during the said twelve 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 sub-section (5) of this section, unless it be established that the disease actually was contracted while the employe 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 sub-section (5) such last employer shall be liable only for such part of the total compensation as under the particular circumstances the commission may deem just; but a false statement in the information furnished as aforesaid shall not impair the employe's rights unless the last employer is prejudiced thereby.

(8) If the employe, at or immediately before the date of disablement, was employed in any process mentioned in the second column of the schedule of diseases in sub-section (9) of this section, and his disease is the disease in the first column of such schedule set opposite the description of the process, the disease presumptively shall be deemed to have been due to the nature of that employment.

(9) For the purposes of this act only the diseases enumerated in column one, following, shall be deemed to be occupational diseases:

Column 1.	
Description of Diseases.	Description of Process.
1. Anthrax.	1. Handling of wool, hair, bristles, hides or skins.
2. Lead poisoning or its sequelae.	2. Any process involving the use of lead or its preparations or compounds.
3. Mercury poisoning or its sequelae.	3. Any process involving the use of mercury or its preparations or compounds.
4. Phosphorous poisoning or its sequelae.	4. Any process involving the use of phosphorous or its preparations or compounds.
5. Arsenic poisoning or its sequelae.	5. Any process involving the use of arsenic or its preparations or compounds.
6. Poisoning by wood alcohol.	6. Any process involving the use of wood alcohol or any preparation containing wood alcohol.
7. Poisoning by nitro and amido-derivatives of benzine (dinitrobenzol, anilin and others), or its sequelae.	7. Any process involving the use of a nitro or amido-derivative of benzine or its preparations or compounds.
8. Poisoning by carbon bisulphide or its sequelae.	8. Any process involving the use of carbon bisulphide or its preparations or compounds.
9. Poisoning by nitrous fumes or its sequelae.	9. Any process in which nitrous fumes are evolved.
10. Poisoning by nickel carbonyl or its sequelae.	10. Any process in which nickel carbonyl gas is evolved.
11. Dope poisoning (poisoning by tetrachloromethane or any substance used as or in conjunction with a solvent for acetate of cellulose or its sequelae).	11. Any process involving the use of any substance used as or in conjunction with a solvent for acetate of cellulose.

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| <p>12. Poisoning by gonioma kamassi (African boxwood) or its sequelae.</p> <p>13. Chrome ulceration or its sequelae.</p> <p>14. 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.</p> <p>15. Glanders.</p> <p>16. Compressed air illness or its sequelae.</p> <p>17. Ankylostomiasis.</p> <p>18. Miner's nystagmus.</p> <p>19. Subcutaneous cellulitis of the hand (beat hand).</p> <p>20. Subcutaneous cellulitis over the patella (Miner's beat knee).</p> <p>21. Acute bursitis over the elbow (Miner's beat elbow).</p> <p>22. Inflammation of the synovial lining of the wrist joint and tendon sheaths.</p> <p>23. Cataract in glassworkers.</p> | <p>12. Any process in the manufacture of articles from gonioma kamassi (African boxwood).</p> <p>13. Any process involving the use of chromic acid or bichromate of ammonium potassium, or sodium, or their preparations.</p> <p>14. Handling or use of tar, pitch, bitumen, mineral oil, or paraffin or any compound, product or residue of any of these substances.</p> <p>15. Care or handling of any equine animal or the carcass of any such animal.</p> <p>16. Any process carried on in compressed air.</p> <p>17. Mining.</p> <p>18. Mining.</p> <p>19. Mining.</p> <p>20. Mining.</p> <p>21. Mining.</p> <p>22. Mining.</p> <p>23. Processes in the manufacture of glass involving exposure to the glare of molten glass.</p> |
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(10) Nothing in this section shall affect the rights of an employe to recover compensation in respect to a disease to which this section does not apply if the disease is an accidental personal injury within the meaning of the other provisions of Part 2 of this act.

(11) The provisions of this section shall not apply to disability or death resulting from a disease contracted prior to the date on which this act takes effect. ('21 c. 82 § 67)

4328. **Not retroactive**—All rights and liabilities arising on account of accidents or injuries occurring prior to the taking effect of this act shall be governed by the then existing law. ('21 c. 82 § 68)

4329. **Invalidity of part not to affect all**—In case for any reason any paragraph or any provision of this act shall be questioned in any court of last resort, and shall be held by such court to be unconstitutional or invalid, the same shall not be held to affect any other paragraph or provision of this act, except that parts 1 and 2 are hereby declared to be inseparable, and if either part be declared void or inoperative in an essential part, so that the whole of such part must fail, the other part shall fall with it and not stand alone. Except as otherwise expressly provided, Part 1 of this act shall not apply in cases where part 2 becomes operative in accordance with the provisions thereof, but shall apply in all other cases, and in such cases shall be in extension or modification of the common law. ('21 c. 82 § 69)

4330. **Laws repealed**—Chapter 467, General Laws Minnesota for 1913, and all acts amendatory thereof, and all acts and parts of acts inconsistent with this act are hereby repealed; provided, however, that this act shall not be deemed to repeal chapter 359, Laws of Minnesota for 1919, insofar as the same applies to employers not under part 2 of this act. ('21 c. 82 § 70)

GENERAL PROVISIONS.

4331. **Workmen's compensation for employes of highway department**—The Commissioner of Highways shall report to the Industrial Commission of Minnesota any accident which may occur to any person in the employ of the highway department in the same manner and upon the same conditions as is prescribed in Section 32 of Chapter 82, Laws of 1921, relating to reports of employers, except that such report shall not be required to contain any statement in relation to liability to pay compensation as is required in cases of other employers. ('23 c. 242 § 1)

4332. **Duties and powers of industrial commission**—The Industrial Commission of Minnesota shall be vested with the same powers and duties with reference to claims for compensation or other benefits of any employe of the Highway Department as in cases of employes of any other employer, and the same procedure shall be used in determining any such liability as in other cases of liability under the Workmen's Compensation Laws of this State, except as in this Act otherwise provided. ('23 c. 242 § 2)

4333. **Same—Report of commission**—Upon the filing of any such report, or upon information received by the Industrial Commission of any injury for which liability for compensation from the Highway Department may arise, it shall be the duty of the Industrial Commission to make a preliminary investigation to determine whether there is a probable liability for compensation to such injured person. The Industrial Commission may require the assistance of the Highway Department or any of the employes thereof in making such investigation, and shall be furnished with all facts which may appear in the records of such Highway Department bearing upon facts relating to such employe or such accident or injury. The Industrial Commission shall thereupon make Findings of Fact indicated by such preliminary investigation, and the award or other determination which the Commission may determine should be made with reference to the liability for compensation, and a copy of such Findings of Fact and proposed award or other determination shall be furnished to such injured person, the Commissioner of Highways and the Attorney General by mailing a copy to each thereof. Within ten days after the mailing of such Findings of Fact and proposed award or other determination, or such further time as the Industrial Commission may fix, the injured person, Commissioner of Highways or the Attorney General may file with the Industrial Commission an objection to such proposed award or other determination. If such objection is filed; the Industrial Commission shall reconsider such proposed award or determination and may set aside or correct any such findings, award or other determination made as aforesaid without formal hearing. In the event that an award or other determination cannot be made in conformity with the performance of the Workmen's Compensation Law and the approval of the injured person or other persons filing such objections, without formal hearing as aforesaid, the said matter shall be set down for a formal hearing and determination by the Commission as in other contested cases. If no such objections are filed as provided herein, such proposed Findings and Award or other determination that the Commission may make

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upon such preliminary investigation or reconsideration aforesaid, shall be final, subject to the right of the Commission to reopen or modify as provided in the Compensation Laws with reference to other awards or determinations of compensation claims. ('23 c. 242 § 3)

4334. **Rate of compensation**—All compensation or other benefits due to employes of the Highway Department as the same may be determined by the Industrial Commission shall be paid pursuant to the Workmen's Compensation Laws of this state and the award or determination that the Industrial Commission may make, out of the part of the trunk highway fund apportioned to the department in which the employee was engaged at the time of the accident. Provided also that the same receipts for payment of compensation and reports as are required to be filed with the Industrial Commission showing payment of compensation in other cases shall be taken for such payments by the Highway Department and filed with the Industrial Commission. ('23 c. 242 § 4)

4335. **Compensation for injury preferred claim in certain cases**—That whenever compensation has heretofore been awarded, or shall hereafter be awarded against any county, city, town, village or school district by any court or commission, having jurisdiction, to any injured employe, or to the dependents of any deceased employe, under the provisions of any workmen's compensation law of this state, such compensa-

tion shall be a preferred claim against such county, city, town, village or school district and it shall be the duty of the proper officers of any such county, city, town, village or school district to pay any such claim for workmen's compensation at such times and in such amounts as shall be ordered by the court or commission, out of the general fund of such county, city, town, village or school district, and from the current tax apportionment received by any such employer for the credit of said fund. ('21 c. 26 § 1)

4336. **Warrants are preferred claims**—That in any and all cases where the orders or warrants of such county, city, town, village or school district, have heretofore been issued, or shall hereafter be issued, in payment of any such compensation, and shall remain unpaid all such orders or warrants shall be preferred claims and shall be paid out of said fund, from current tax apportionments received for the credit of said fund, in preference to any other claims for compensation arising under said law subsequent to the issuing of any such orders or warrants by said employer. ('21 c. 26 § 2)

4337. **Act construed liberally**—This act shall be liberally construed in order to effect the prompt payment of claims for workmen's compensation against any county, city, town, village or school district by any injured employe, or the dependents of any deceased employe of such county, city, town, village or school district. ('21 c. 26 § 3)

CHAPTER 23B

IMMIGRATION

4338. **State board of immigration**—A board to be known as the Minnesota state board of immigration is hereby created. ('07 c. 267 § 1) [3947]

4339. **How constituted—Terms, etc.**—The said board shall be composed of five members. The governor, auditor of state, and secretary of state, shall be ex-officio members. The other two members shall be chosen by the three ex-officio members aforesaid. The term of office of said appointed members shall be two years and until their respective successors shall have been duly chosen and qualified, and they shall serve without any compensation whatsoever. Each member of the board shall be a citizen of the United States of America, and a resident of the state of Minnesota and a qualified elector. The governor shall, ex-officio, be chairman of said board. ('07 c. 267 § 2) [3948]

4340. **Commissioner of immigration—Term—Compensation, etc.—Other agents**—The said board of immigration shall appoint a qualified elector of this state to be the general executive agent of said board, and such agent shall be officially known and styled, commissioner of immigration. The said commissioner of immigration shall hold office during the pleasure of said board, shall receive such compensation as said board shall determine, and shall perform such functions as said board may designate. Before entrance upon the duties of his office, the commissioner of immigration shall make and subscribe an oath of office in the usual form and shall execute and deliver to the governor a bond to the state of Minnesota, in the sum of ten thousand dollars, with sufficient sureties, to be approved by said board, conditioned upon the honest and faithful performance of his duties as such commis-

sioner. The said board shall also employ such other servants and agents as in the judgment of said board shall be necessary, and shall define the duties, terms of service and compensation of the persons so employed. ('07 c. 267 § 3) [3949]

4341. **Office**—The Minnesota state board of immigration shall be provided with an office and suitable furniture and stationery at the expense of the state. ('07 c. 267 § 4) [3950]

4342. **Duties of board—Annual report**—The duties of said board of immigration, so far as practicable, shall be to collect and arrange statistics and other information in reference to the lands and general and special resources of the state of Minnesota, and the advantages of this state as a place of residence; to spread knowledge of the same throughout the civilized world by correspondence, by messengers and public lectures and by all forms of legitimate advertising; to facilitate the immigration of such persons of good moral character as may desire a change of domicile, and to answer all inquiries from persons residing within or without the state, upon the subjects aforesaid. At each session of the state legislature, the board shall make a report of all its transactions during the biennial period next preceding the first day of such session. ('07 c. 267 § 5) [3951]

"State Colonization Commission" under agriculture and rural credits '21 c. 330.

4343. **Advertising and disposal of public lands**—The Minnesota state board of immigration shall, in addition to the performance of the duties hereinbefore described, co-operate, as far as practicable, with the state land commissioner, in and about the advertising and disposal of public lands. ('07 c. 267 § 6) [3952]