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State of Iowa
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Workmen's Compensation Law

Revised to July 4, 1929

A. B. FUNK
Iowa Industrial Commissioner

Published by
THE STATE OF IOWA
Des Moines

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WORKMEN'S COMPENSATION
Chapter 70, Code of Iowa

Section **1361. To whom not applicable.** This chapter shall not apply to:

1. Any household or domestic servant.
2. Persons whose employment is of a casual nature.
3. Persons engaged in agriculture, in so far as injuries shall be incurred by employees while engaged in agricultural pursuits or any operations immediately connected therewith, whether on or off the premises of the employer.

4. As between a municipal corporation, city, or town, and any person or persons receiving any benefits under, or who may be entitled to benefits from, any "firemen's pension fund" or "policemen's pension fund" of any municipal corporation, city, or town, except as otherwise provided by law.

Sec. **1362. Compulsory when.** Where the state, county, municipal corporation, school district, or city under any form of government is the employer, the provisions of this chapter for the payment of compensation and amount thereof for any injury sustained by an employee of such employer shall be exclusive, compulsory, and obligatory upon both employer and employee, except as otherwise provided in the preceding section.

Sec. **1363. Acceptance presumed.** Except as provided by this chapter, it shall be conclusively presumed that every employer has elected to provide, secure, and pay compensation according to the provisions of this chapter for any and all personal injuries sustained by an employee arising out of and in the course of the employment, and in such cases, the employer shall be relieved from other liability for recovery of damages or other compensation for such personal injury.

Sec. **1364. Rejection.** The presumption as stated in the preceding section shall continue and be in force until notice in writing of an election to the contrary shall have been given to the

employees by posting the same in some conspicuous place where the business is carried on, and also by filing notice with the industrial commissioner with return thereon by affidavit showing the date and place notice was posted. Any employer beginning business and giving notice at once of his rejection of this chapter shall not be considered as under such provisions, but such employer shall not be relieved of the payment of compensation until thirty days after the posting and filing of such notice with the industrial commissioner.

Sec. 1365. Employer's notice to reject. An employer's notice of election to reject the provisions of this chapter shall be substantially in the following form:

To the employees of the undersigned, and the Iowa industrial commissioner:

You are hereby notified that the undersigned rejects the provisions to provide, secure, and pay compensation to employees of the undersigned for injuries received as provided in chapter 70 of the code, and elects to pay damages for personal injuries received by such employee under the common law and statutes of this state as modified by sections 1375 and 1379 of said chapter.

Signed.....
(Employer)

State of Iowa, }
 } ss.
 } _____ County

The undersigned on oath says that a true copy of the foregoing notice was on the _____ day of _____, 19____, posted at _____ (State fully place where posted)

Subscribed and sworn to before me by _____ this _____ day of _____, 19____
(Notary Public)

Sec. 1366. Posting notice to reject. The employer shall keep such notice posted in some conspicuous place where the business is carried on, which shall apply to the employees subsequently employed by the employer with the same force and effect and to the same extent as employees in the employ at the time the notice was given.

Sec. 1367. Defenses when employee rejects. In the event an employee elects to reject the provisions of this chapter, the rights and remedies thereof shall not apply where such employee brings an action to recover damages for injuries received arising out of and in the course of his employment, except as otherwise provided by this chapter; and in such actions the employer shall have the right to plead and rely upon any and all defenses including those at common law, and the defenses of contributory negligence, assumption of risk, and fellow servant rule, except as otherwise provided by law.

Sec. 1368. Certain defenses not available when employee rejects. When an employee who has rejected the provisions of this chapter, receives an injury through failure of the employer to furnish or failure to exercise reasonable care to keep and maintain any safety device, appliance, or equipment as required by law, statutory rule or regulation, or through the violation of any other statutory requirements or regulations on the part of such employer, then the doctrine of assumed risk in relation to such cause of injury shall not be available as a defense to such employer in any action for damages on account of such injury.

Sec. 1369. Employees' notice to reject. The notice required to be given by an employee shall be substantially in the following form:

To..... and the Iowa industrial commissioner:

(Name of employer)

You are hereby notified that the undersigned hereby elects to reject the terms, conditions, and provisions of chapter 70 of the code for the payment of compensation as provided thereby, and elects to rely upon the common law as modified by sections 1367 and 1368 of said chapter for the right to recover for personal injury which I may receive, if any, arising out of and in the course of my employment while in line of duty for my employer above named.

Dated this.....day of....., 19..

Signed.....

State of Iowa, }
County. } ss.

The undersigned on oath says that the above written notice was on the.....day of....., 19..served on the within named employer of the undersigned by delivering to.....a true copy thereof.

(Name of person serving)

Subscribed and sworn (or affirmed) to before me by the said.....this.....day of....., 19..

(Notary Public)

Sec. 1370. Affidavit of employee as to rejection. When an employee or one who is an applicant for employment rejects the provisions of this chapter, he shall, in addition to such notice, state in an affidavit to be filed with said notice who, if any person, requested, suggested, or demanded of such person to reject the provisions of this chapter. If such request, suggestion, or demand has been made of such employee by any person, such employee shall state the name of the person who made the request, suggestion, or demand, and all of the circumstances relating thereto, the date and place made, and persons present, and if it be found that the employer of such employee, or an employer to whom an applicant for employment

has applied, or any person a member of the firm, association, corporation, or agent or official of such employer, made a request, suggestion, or demand to such employee or applicant for employment to reject the provisions of this chapter, the rejection made under such circumstances shall be conclusively presumed to have been fraudulently procured, and such rejection shall be null and void and of no effect, unless such employee has a permanent disability at the time of making the affidavit, then and in that event such rejection shall be presumed to have been fraudulently procured.

Sec. 1371. Interested person not to administer oath. No person interested in the business of such employer, financially or otherwise, shall be permitted to administer the oath to the affiant required in case an employee or applicant for employment elects to reject the provisions of this chapter. And the person administering such oath to such affiant shall carefully read the notice and affidavit to such person making such rejection, and shall explain that the purpose of the notice is to bar such person from recovering compensation in accordance with the schedule and terms of this chapter in the event that he sustains an injury in the course of such employment; all of which shall be shown by certificate of the person administering the oath herein contemplated.

The industrial commissioner shall refuse to file the notice and affidavit, unless the same fully and in detail complies with the requirements hereof.

If such rejection, affidavit, or certificate is found insufficient for any cause, they shall be returned to the person who executed the instrument, with the reasons indorsed thereon by the industrial commissioner.

Sec. 1372. Tenure of election. When the employer or employee has given notice in compliance with this chapter electing to reject the terms thereof, such election shall continue and be in force until such employer or employee shall thereafter elect to come under the provisions of this chapter as is provided in the next section.

Sec. 1373. Waiver of election to reject. When an employer or employee rejects the provisions of this chapter, such party may at any time thereafter elect to waive the same by giving notice in writing in the same manner required of the party in electing to reject the provisions of this chapter, which shall become effective when filed with the industrial commissioner and posted at the place of business.

Sec. 1374. Liability when employer and employee reject. When the employer and the employee elect to reject the provisions of this chapter, the liability of the employer shall be the same as though the employee had not rejected the provisions hereof.

Sec. 1375. Defenses not available. An employer who rejects the provisions of this chapter in the manner and form provided, shall not escape liability for personal injury sustained by an employee of such employer when the injury sustained arises out of and in the course of the employment on the grounds that:

1. The employee assumed the risks inherent in or incidental to or arising out of his or her employment, or the risks arising out of the failure of the employer to provide and maintain a reasonably safe place to work, or the risks arising out of the failure of the employer to furnish reasonably safe tools or appliances, or the risks arising out of the failure of the employer to exercise reasonable care in selecting reasonably competent employees in the business, or on the ground that the employer exercised reasonable care in selecting reasonably competent employees in the business.

2. The injury was caused by the negligence of a coemployee.

3. The employee was negligent, unless such negligence was wilful and with intent to cause the injury, or the result of intoxication on the part of the injured party.

Sec. 1376. Wilful injury—intoxication. No compensation under this chapter shall be allowed for an injury caused:

1. By the employee's wilful intent to injure himself or to wilfully injure another.

2. When intoxication of the employee was the proximate cause of the injury.

Sec. 1377. Implied acceptance. Where the employer and employee have not given notice of an election to reject the terms of this chapter, every contract of hire, express or implied, shall be construed as an implied agreement between them and a part of the contract on the part of the employer to provide, secure, and pay, and on the part of the employee to accept compensation in the manner as by this chapter provided for all personal injuries sustained arising out of and in the course of the employment.

Sec. 1378. Contract to relieve not operative. No contract, rule, regulation, or device whatsoever shall operate to relieve the employer, in whole or in part, from any liability created by this chapter except as herein provided.

Sec. 1379. Negligence presumed—burden of proof. In actions by an employee against an employer for personal injury sustained, arising out of and in the course of the employment, when the employer has rejected the provisions of this chapter, the following provisions shall apply:

1. It shall be presumed:

a. That the injury to the employee was the direct result and growing out of the negligence of the employer.

b. That such negligence was the proximate cause of the injury.

2. In such cases the burden of proof shall rest upon the employer to rebut the presumption of negligence.

Sec. 1380. Rights of employee exclusive—presumption. The rights and remedies provided in this chapter for an employee on account of injury shall be exclusive of all other rights and remedies of such employee, his personal or legal representatives, dependents, or next of kin, at common law or otherwise, on account of such injury; and all employees affected by this chapter shall be conclusively presumed to have elected to take compensation in accordance with the terms, conditions, and provisions hereof until notice in writing shall have been served upon his employer, and also on the industrial commissioner, with return thereon by affidavit showing the date upon which notice was served upon the employer.

Sec. 1381. Subsequent election to reject—effect. An employer having come under this chapter, who thereafter elects to reject, the terms, conditions, and provisions thereof, shall not be relieved from the payment of compensation to any employee who sustains an injury arising out of and in the course of the employment before the election to reject becomes effective; and in such cases the employer shall be required to secure the payment of any compensation due or that may become due to such employee, subject to the approval of the Iowa industrial commissioner.

Sec. 1382. Liability of other than employer—subrogation. When an employee receives an injury for which compensation is payable under this chapter, and which injury is caused under circumstances creating a legal liability against some person other than the employer to pay damages, the employee, or his dependent, or the trustee of such dependent, may take proceedings against his employer for compensation, and the employee or, in case of death, his legal representative may also maintain an action against

such third party for damages. When an injured employee or his legal representative brings an action against such third party, a copy of the original notice shall be served upon the employer by the plaintiff, not less than ten days before the trial of the case, but a failure to give such notice shall not prejudice the rights of the employer, and the following rights and duties shall ensue:

1. If compensation is paid the employee or dependent or the trustee of such dependent under this chapter, the employer by whom the same was paid, or his insurer which paid it, shall be indemnified out of the recovery of damages to the extent of the payment so made, with legal interest, and shall have a lien on the claim for such recovery and the judgment thereon for the compensation for which he is liable. In order to continue and preserve the lien, the employer or insurer shall, within thirty days after receiving notice of such suit from the employee, file, in the office of the clerk of court where the action is brought, notice of the lien.

2. In case the employee fails to bring such action within ninety days, or where a city or town or city under special charter is such third party, within thirty days after written notice so to do given by the employer or his insurer, as the case may be, then the employer or his insurer shall be subrogated to the rights of the employee to maintain the action against such third party, and may recover damages for the injury to the same extent that the employee might. In case of recovery, the court shall enter judgment for distribution of the proceeds thereof as follows:

a. A sum sufficient to repay the employer for the amount of compensation actually paid by him to that time.

b. A sum sufficient to pay the employer the present worth computed on a six per cent basis of the future payments of compensation for which he is liable, but such sum thus found shall not be considered as a final adjudication of the future payments which the employee shall receive and the amount received by the employer, if any, in excess of that required to pay the compensation shall be paid to the employee.

c. The balance, if any, shall be paid over to the employee.

3. Before a settlement shall become effective between an employee or an employer and such third party who is liable for the injury, it must be with the written consent of the employee, in case the settlement is between the employer or insurer and such third person; and the consent

of the employer or insurer, in case the settlement is between the employee and such third party; or on refusal of consent, in either case, then upon the written approval of the industrial commissioner.

4. A written memorandum of any settlement, if made, shall be filed by the employee in the office of the industrial commissioner.

Sec. 1383. Notice of injury—failure to give. Unless the employer or his representative shall have actual knowledge of the occurrence of an injury, or unless the employee or someone on his behalf or some of the dependents or someone on their behalf shall give notice thereof to the employer within fifteen days after the occurrence of the injury, then no compensation shall be paid until and from the date such notice is given or knowledge obtained; but if such notice is given or knowledge obtained within thirty days from the occurrence of the injury, no want, failure, or inaccuracy of a notice shall be a bar to obtain compensation, unless the employer shall show that he was prejudiced thereby, and then only to the extent of such prejudice; but if the employee or beneficiary shall show that his failure to give prior notice was due to mistake, inadvertence, ignorance of fact or law, or inability, or to the fraud, misrepresentation, or deceit of another, or to any other reasonable cause or excuse, then compensation may be allowed, unless and then to the extent only that the employer shall show that he was prejudiced by failure to receive such notice, but unless knowledge is obtained or notice given within ninety days after the occurrence of the injury, no compensation shall be allowed.

Sec. 1384. Form of notice. No particular form of notice shall be required, but may be substantially as follows:

To.....
You are hereby notified that on or about the.....
.....day of....., 19.....
personal injury was sustained by.....
while in your employ at.....
(Give name and place employed and point
where located when injury occurred.)
.....; and that compensation
will be claimed therefor.

Signed.....
No variation from this form of notice shall be material if the notice is sufficient to advise the employer that a certain employee, by name, received an injury in the course of his employment on or about a specified time, at or near a certain place.

Sec. 1385. Service of notice. The notice may be served on anyone upon whom an original notice may be served in civil cases. Service may

be made by any person, who shall make return verified by affidavit upon a copy of the notice showing the date and place of service and upon whom served; but no special form of the return of service of the notice shall be required. It shall be sufficient if the facts therefrom can be reasonably ascertained. The return of service may be amended at any time.

Sec. 1386. Limitation of actions. No original proceedings for compensation shall be maintained in any case unless such proceedings shall be commenced within two years from the date of the injury causing such death or disability for which compensation is claimed.

Sec. 1387. Surgical and medical services—amount. In addition to other compensation hereinafter provided for, at the time of the injury and thereafter during the disability, but not exceeding four weeks of incapacity, the employer, if so requested by the employee, or anyone for him, or if so ordered by the court or industrial commissioner, shall furnish reasonable surgical, medical, and hospital services, and supplies therefor, or any other appropriate treatment agreed to in writing by the employee and the employer and the insurer, not exceeding two hundred dollars; but, in exceptional cases, the employer shall furnish such additional medical, surgical, and hospital services and supplies for such a period and in such amount as the industrial commissioner shall order, but in no event to exceed one hundred dollars for such additional services and supplies.

Sec. 1388. Burial expense. When death ensues from the injury, the employer shall pay the reasonable expenses of burial of such employee not to exceed one hundred fifty dollars, which shall be in addition to other compensation or any other benefit provided for in this chapter.

Sec. 1389. Liability in case of death and no dependents. When the injury causes death of an employee who leaves no dependents, then the employer shall pay the reasonable expense of the employee's sickness, if any, and the expense of burial, as provided in the last two preceding sections, and this shall be the only compensation; provided that if, from the date of the injury until the date of the death, any weekly compensation shall have become due and unpaid up to the time of the death, the same shall be payable to the estate of the deceased employee.

Sec. 1390. Compensation schedule. In all cases where an employee receives a personal injury for which compensation other than for med-

ical, surgical, and hospital services and burial expenses, is payable, such compensation shall be upon the basis of sixty per cent per week of the average weekly earnings but not to exceed fifteen dollars nor less than six dollars per week, except if at the time of his injury his earnings are less than six dollars per week, then he shall receive in weekly payments a sum equal to the full amount of his weekly earnings.

Sec. 1391. Maturity date and interest. Compensation payments shall be made each week beginning on the twenty-second day after the injury, and each week thereafter during the period for which compensation is payable, and if not paid when due, there shall be added to such weekly compensation payments, interest at six per cent from date of maturity.

Sec. 1392. Death Cases—dependents.

1. When death results from the injury, the employer shall pay the dependents who were wholly dependent on the earnings of the employee for support at the time of his injury, the weekly compensation for a period of three hundred weeks from the date of his injury.

2. When the injury causes the death of a minor employee whose earnings were received by the parent, the compensation to be paid such parent shall be two-thirds of the weekly compensation for an adult with like earnings.

3. If the employee leaves dependents only partially dependent upon his earnings for support at the time of the injury, the weekly compensation to be paid as aforesaid, shall be equal to the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of the injury.

4. When weekly compensation has been paid to an injured employee prior to his death, the compensation to dependents shall run from the date to which compensation was fully paid to such employee, but shall not continue for more than three hundred weeks from the date of the injury.

5. Where an employee is entitled to compensation under this chapter for an injury received, and death ensues from any cause not resulting from the injury for which he was entitled to the compensation, payments of the unpaid balance for such injury shall cease and all liability therefor shall terminate.

6. Except as otherwise provided by treaty, whenever, under the provisions of this and the two following chapters, compensation is payable to a dependent who is an alien not residing

in the United States at the time of the injury, the employer shall pay fifty per cent of the compensation herein otherwise provided to such dependent, and the other fifty per cent shall be paid into the state treasury. But if the non-resident alien dependent is a citizen of a government having a compensation law which excludes citizens of the United States, either resident or nonresident, from partaking of the benefits of such law in as favorable degree as herein extended to the nonresident alien, then said compensation which would otherwise be payable to such dependent shall be paid into the state treasury.

Sec. 1393. When compensation begins. Except as to injuries resulting in permanent partial disability, compensation shall begin on the fifteenth day of disability after the injury.

If the period of incapacity extends beyond the thirty-fifth day following the date of injury, then the compensation for the fifth week shall be increased by adding thereto an amount equal to two-thirds of one week of compensation.

If the period of incapacity extends beyond the forty-second day following the date of injury, then the compensation for the sixth week shall be increased by adding thereto an amount equal to two-thirds of one week of compensation.

If the period of incapacity extends beyond the forty-ninth day following the date of injury, then the compensation for the seventh week shall be increased by adding thereto an amount equal to two-thirds of one week of compensation.

If the period of incapacity extends beyond the forty-ninth day following the date of injury, then the compensation thereafter shall be only the weekly compensation.

Sec. 1394. Temporary disability. For injury producing temporary disability, and beginning on the fifteenth day thereof, the employer shall pay the weekly compensation during the period of such disability, but not exceeding three hundred weeks, including the periodical increase in cases to which the preceding section applies.

Sec. 1395. Permanent total disability. For an injury causing permanent total disability, the employer shall pay the weekly compensation during the period of his disability, not, however, beyond four hundred weeks.

Sec. 1396. Permanent partial disabilities. Compensation for permanent partial disability shall begin at the date of injury and shall be based upon the extent of such disability, and for all cases of permanent partial disability included in the following schedule compensation shall be paid as follows:

1. For the loss of a thumb, weekly compensation during forty weeks.

2. For the loss of a first finger, commonly called the index finger, weekly compensation during thirty weeks.

3. For the loss of a second finger, weekly compensation during twenty-five weeks.

4. For the loss of a third finger, weekly compensation during twenty weeks.

5. For the loss of a fourth finger, commonly called the little finger, weekly compensation during fifteen weeks.

6. The loss of the first or distal phalange of the thumb or of any finger shall equal the loss of one-half of such thumb or finger and compensation shall be one-half of the time for the loss of such thumb or finger.

7. The loss of more than one phalange shall equal the loss of the entire finger or thumb.

8. For the loss of a great toe, weekly compensation during twenty-five weeks.

9. For the loss of one of the toes other than the great toe, weekly compensation during fifteen weeks.

10. The loss of the first phalange of any toe shall equal the loss of one-half of such toe and the compensation shall be one-half of the time provided for the loss of such toe.

11. The loss of more than one phalange shall equal the loss of the entire toe.

12. For the loss of a hand, weekly compensation during one hundred fifty weeks.

13. The loss of two-thirds of that part of an arm below the shoulder joint and the elbow joint shall equal the loss of an arm and the compensation therefor shall be weekly compensation during two hundred twenty-five weeks.

14. For the loss of a foot, weekly compensation during one hundred twenty-five weeks.

15. The loss of two-thirds of that part of a leg between the hip joint and the knee joint shall equal the loss of a leg, and the compensation therefor shall be weekly compensation during two hundred weeks.

16. For the loss of an eye, weekly compensation during one hundred weeks.

17. For the loss of an eye, the other eye having been lost prior to the injury, weekly compensation during two hundred weeks.

18. For the loss of hearing in one ear, weekly compensation during fifty weeks, and for the loss of hearing in both ears, weekly compensation during one hundred fifty weeks.

19. The loss of both arms, or both hands, or both feet, or both legs, or both eyes, or of any two thereof, caused by a single accident, shall

equal permanent total disability, to be compensated as such.

20. In all other cases of permanent partial disability, the compensation shall bear such relation to the periods of compensation stated in the above schedule as the disability bears to those produced by the injuries named in the schedule.

Sec. 1397. Basis of computation.

1. Compensation shall be computed on the basis of the annual earnings which the injured person received as salary, wages, or earnings in the employment of the same employer during the year next preceding the injury.

2. Employment by the same employer shall mean in the grade in which the employee was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause.

3. The annual earnings, if not otherwise determinable, shall be three hundred times the average daily earnings in such computation.

4. If the injured person has not been engaged in the employment for a full year immediately preceding the accident, the compensation shall be computed according to the annual earnings which persons of the same class in the same or in neighboring employments of the same kind have earned during such period. If this basis of computation is impossible, or should appear to be unreasonable, three hundred times the amount which the injured person earned on an average of those days when he was working during the year next preceding the accident, shall be the basis for the computation.

5. In case of injured employees who earn either no wages or less than three hundred times the usual daily wage or earnings of the adult day laborer in the same line of industry of that locality, the yearly wage shall be reckoned as three hundred times the average daily local wages of the average wage earner in that particular kind or class of work, or if information of that kind is not obtainable, then the class most kindred or similar in the same general employment in the same neighborhood.

6. For employees in a business or enterprise which customarily shuts down and ceases operation during a season of each year, the number of working days which it is the custom of such business or enterprise to operate each year instead of three hundred shall be the basis for computing the annual earnings; but the minimum number of days which shall be used as a basis for the year's work shall not be less than two hundred.

7. Earnings, for the purpose of this section,

shall be based on the earnings for the number of hours commonly regarded as a day's work for that employment and shall exclude overtime earnings. The earnings shall not include any sum which the employer has been accustomed to pay the employee to cover any special expense entailed on him by the nature of the employment.

8. In computing the compensation to be paid to any employee who, before the accident for which he claims compensation, was disabled and drawing compensation under the provisions of this chapter, the compensation for each subsequent injury shall be apportioned according to the proportion of disability caused by the respective injuries which he shall have suffered.

Sec. 1398. Contributions from employees. The compensation herein provided shall be the measure of liability which the employer has assumed for injuries or death that may occur to employees in his employment subject to the provisions of this chapter, and it shall not be in anywise reduced by contribution from employees or donations from any source.

Sec. 1399. Examination of injured employees. After an injury, the employee, if so requested by his employer, shall submit himself for examination at some reasonable time and place within the state and as often as may be reasonably requested, to a physician or physicians authorized to practice under the laws of this state, without cost to the employee, but if the employee requests, he shall, at his own cost, be entitled to have a physician or physicians of his own selection present to participate in such examination. The refusal of the employee to submit to such examination shall deprive him of the right to any compensation for the period of such refusal. When a right of compensation is thus suspended, no compensation shall be payable for the period of suspension.

Sec. 1400. Statement of earnings. The employer shall furnish, upon request of an injured employee or dependent or any legal representative acting for such person, a statement of the earnings, wages, or salary and other matters relating thereto during the year or part of the year that such employee was in the employment of such employer for the year preceding the injury; but not more than one report shall be required on account of any one injury.

Sec. 1401. Refusing or neglecting to furnish statement. On failure of the employer to furnish such statement of earnings for thirty days after receiving written request therefor from

an injured employee, his agent, attorney, dependent, or legal representative, such employer shall pay a penalty of twenty-five dollars for each offense to be collected by the commissioner in any court having jurisdiction and paid into the state treasury.

Sec. 1402. Persons conclusively presumed wholly dependent. The following shall be conclusively presumed to be wholly dependent upon the deceased employee:

1. The surviving spouse, with the following exceptions:

a. When it is shown that at the time of the injury the surviving spouse had wilfully deserted deceased without fault of the deceased, then such survivor shall not be considered as dependent in any degree.

b. When the surviving spouse was not married to the deceased at the time of the injury.

c. When the deceased leaves no dependent children and the surviving spouse remarries, then all compensation shall cease on the date of such marriage.

2. A child or children under sixteen years of age, and over said age if physically or mentally incapacitated from earning, whether actually dependent for support or not upon the parent at the time of his or her death. An adopted child or children or stepchild or step-children shall be regarded the same as issue of the body.

3. A parent of a minor who is receiving the earnings of the employee at the time when the injury occurred. Stepparents shall be regarded as parents.

Sec. 1403. Payment to spouse—death before payment. If the deceased employee leaves a surviving spouse, the full compensation shall be paid to her or him, subject to the exceptions in the preceding section; provided that where a deceased employee leaves a surviving spouse and a child or children under sixteen years of age, or over said age if physically or mentally incapacitated from earning, the industrial commissioner may make an order of record for an equitable apportionment of the compensation payments. If the spouse dies before full payment, the balance shall be paid to the person or persons wholly dependent on deceased, if any, share and share alike. If there are none wholly dependent, then such balance shall be paid to partial dependents, if any, in proportion to their dependency.

Sec. 1404. Payment to actual dependents. In all other cases, questions of dependency in whole or in part shall be determined in accord-

ance with the facts as of the date of the injury; and in such other cases if there is more than one person wholly dependent, the death benefit shall be equally divided among them. If there is no one wholly dependent and more than one person partially dependent, the death benefit shall be divided among them in the proportion each dependency bears to their aggregate dependency.

Sec. 1405. Commutation. Future payments of compensation may be commuted to a present worth lump sum payment on the following conditions:

1. When the period during which compensation is payable can be definitely determined.

2. When the written approval of such commutation by the industrial commissioner has been filed in the proceedings to commute.

3. When it shall be shown to the satisfaction of the court or a judge thereof that such commutation will be for the best interest of the person or persons entitled to the compensation, or that periodical payments as compared with a lump sum payment will entail undue expense, hardship, or inconvenience upon the employer liable therefor.

Sec. 1406. Proceedings for commutation. A written petition for commutation may be made to the district court in and for the county in which the injury occurred or to any judge thereof, and shall have indorsed thereon the approval of the industrial commissioner.

Notice of the filing or presentation of such petition shall be served upon the opposite party or parties for the time and in the manner required for original notices. The court or judge in term time or vacation shall hear and determine the matter as a proceeding in equity and render such judgment and decree, granting such commutation in whole or in part or dismissing the petition, as equity will warrant on the facts presented.

In any case parties in interest may agree in writing to waive presenting the petition for commutation to the district court and in such case, if the application is approved by the industrial commissioner, governed by the law applicable to the district court, he may enter an order for commutation which shall have the same force and effect as if made by the district court with the right upon the part of either party to file a certified copy thereof in the district court as provided for an award.

Sec. 1407. Basis of commutation. When the commutation is ordered, the court shall fix the lump sum to be paid at an amount which will

equal the total sum of the probable future payments capitalized at their present value and upon the basis of interest, calculated at five per cent per annum. Upon the payment of such amount the employer shall be discharged from all further liability on account of such injury or death, and be entitled to a duly executed release, upon filing which the liability of such employer under any agreement, award, finding, or judgment shall be discharged of record.

Sec. 1408. Partial commutation. When partial commutation is ordered, the court shall fix the lump sum to be paid at an amount which will equal the future payments for the period commuted, capitalized at their present value upon the basis of interest calculated at five per cent per annum, with provisions for the payment of weekly compensation not included in such commutation, subject to any provisions of the law applicable to such unpaid weekly payments; all remaining payments, if any, to be paid at the same time as though such commutation had not been made.

Sec. 1409. Trustees for incompetent. When an injured minor employee, or a minor dependent, or one mentally incompetent, is entitled to compensation under this chapter, payment shall be made to a trustee appointed by the judge of the district court for the county in which the injury occurred, and the money coming into the hands of said trustee shall be expended for the use and benefit of the person entitled thereto under the direction and orders of the judge during term time or in vacation. If the judge making the appointment deems it advisable, a trustee may be appointed to serve for more than one county in the district and the expenses shall be paid ratably by each county according to the amount of work performed in each county. The trustees shall qualify and give bond in such amount as the judge may direct, which may be increased or diminished from time to time as the court may deem best.

Sec. 1410. Annual report of trustee. The trustees shall make annual reports to the court of all money or property received and expended for each person and for services rendered as trustee, shall be paid such compensation by the county as the court may direct by written order directed to the auditor of the county, who shall issue a warrant therefor upon the treasurer of the county in which the appointment is made.

Sec. 1411. Alien dependents in foreign country. In case a deceased employee for whose injury or death compensation is payable leaves surviving him an alien dependent or dependents

residing outside the United States, the consul general, consul, vice consul, or consular agent of the nation of which the said dependent or dependents are citizens, or the duly appointed representative of such consular official resident in the state of Iowa, shall be regarded as the exclusive representative of such dependent or dependents, and said consular officials or their representatives shall have the same rights and powers in all matters of compensation which said nonresident aliens would have if resident in the state of Iowa.

Sec. 1412. Consular officer or agent may be appointed trustee. Such consular officer or his duly appointed representative resident in the state of Iowa shall file in the district court of the county in which the accident occurred resulting in the death of said employee evidence of his authority, and thereupon the court or a judge thereof shall appoint him a trustee for such nonresident alien dependents, and thereafter he shall be subject to the jurisdiction of said court until his final report of distribution and payment has been filed and approved. Such consular official or his said representative shall qualify as such trustee by giving bond with approved sureties in a sum to be fixed by said court or judge, and the amount of said bond may be increased or decreased from time to time as said court or judge may direct.

Sec. 1413. Notice to consular officer. If such consular officer, or his duly appointed representative, shall file with the industrial commissioner evidence of his authority, the industrial commissioner shall notify such consular officer or his representative of the death of all employees leaving alien dependent, or dependents, residing in the country of said consular officer so far as same shall come to his knowledge.

Sec. 1414. Contracts to avoid compensation. Any contract of employment, relief benefit, or insurance, or other device whereby the employee is required to pay any premium or premiums for insurance against the compensation provided for in this chapter, shall be null and void; and any employer withholding from the wages of any employee any amount for the purpose of paying any such premium shall be guilty of a misdemeanor and punishable by a fine not less than ten dollars nor more than fifty dollars for each offense.

Sec. 1415. Waivers prohibited. No employee or dependent to whom this chapter applies, shall have power to waive any of the provisions of this chapter in regard to the amount

of compensation which may be payable to such employee or dependent hereunder.

Sec. 1416. Contracts presumed fraudulent. Any contract or agreement made by any employer or his agent or attorney with any employee or any other dependent under the provisions of this chapter within twelve days after the injury shall be presumed to be fraudulent.

Sec. 1417. Employees in interstate commerce. So far as permitted, or not forbidden, by any act of congress, employers engaged in interstate or foreign commerce and their employees working only in this state shall be bound by the provisions of this chapter in like manner and with the same force and effect in every respect as by this chapter provided for other employers and employees.

Sec. 1418. Employees of state. All valid claims now due or which may hereafter become due employees of the state under the provisions of this chapter shall be paid out of any funds in the state treasury not otherwise appropriated.

Sec. 1419. Payment of state employees. The auditor of state is hereby authorized and directed to draw warrants on the state treasury for any and all amounts due state employees under the provisions of this chapter upon there being filed in his office, either a memorandum of settlement approved by the industrial commissioner or of an award made by a board of arbitration, for which no review is pending, or an order of the industrial commissioner from which no appeal has been taken, or a judgment of any court of the state accompanied by a certificate of the industrial commissioner setting forth the amount of compensation due and the statutory provisions under which the same should be paid.

Sec. 1420. Board of audit not to approve. Claims for compensation under the last two preceding sections shall not require approval by the board of audit.

Sec. 1421. Definitions. In this and chapters 71 and 72, unless the context otherwise requires, the following definitions of terms shall prevail:

1. "Employer" includes and applies to any person, firm, association, or corporation, state, county, municipal corporation, city under special charter and under commission form of government, school district, and the legal representatives of a deceased employer.

2. "Workman" or "employee" means a person who has entered into the employment of, or works under contract of service, express or im-

plied, or apprenticeship, for an employer, except as hereinafter specified.

3. The following persons shall not be deemed "workmen" or "employees":

a. A person whose employment is purely casual and not for the purpose of the employer's trade or business.

b. A person engaged in clerical work only, but clerical work shall not include anyone who may be subject to the hazards of the business.

c. An independent contractor.

d. A person holding an official position, or standing in a representative capacity of the employer, or an official elected or appointed by the state, county, school district, municipal corporation, city under special charter or commission form of government.

4. The term "workman" or "employee" shall include the singular and plural of both sexes. Any reference to a workman or employee who has been injured shall, when such workman or employee is dead, include his dependents as herein defined or his legal representatives; and where the workman or employee is a minor or incompetent, it shall include his guardian, next friend, or trustee.

5. The words "injury" or "personal injury" shall be construed as follows:

a. They shall include death resulting from personal injury.

b. They shall not include injury caused by the wilful act of a third person directed against an employee for reasons personal to such employee, or because of his employment.

c. They shall not include a disease unless it shall result from the injury.

6. The words "personal injury arising out of and in the course of the employment" shall include injuries to employees whose services are being performed on, in, or about the premises which are occupied, used, or controlled by the employer, and also injuries to those who are engaged elsewhere in places where their employer's business requires their presence and subjects them to dangers incident to the business.

7. The word "court" wherever used in this and the two succeeding chapters, unless the context shows otherwise, shall be taken to mean the district court.

Sec. 1422. Peace officers. Any policeman (except those pensioned under the policemen's pension fund created by law), any sheriff, marshal, constable, and any and all of their deputies, and any and all other such legally appointed or elected law-enforcing officers, who

dollars, or so much thereof as may be required, annually, to defray the expenses of said office.

Sec. 1427. Political activity. It shall be unlawful for the commissioner, or any appointee of the commissioner while in office, to espouse the election or appointment of any candidate to any political office, contribute to the campaign fund of any political party, or to the campaign fund of any person who is a candidate for election or appointment to any political office, and any person violating the provisions of this section shall be guilty of a misdemeanor and shall be fined one hundred dollars, and it shall be sufficient cause for removal from office.

Sec. 1428. Political promises. Any person who is a candidate for appointment as commissioner who makes any promise to another, express or implied, in consideration of any assistance or influence given or recommendation made that the candidate will, if appointed as a commissioner, appoint such person or one whom he may recommend to any office within the power of the commissioner to appoint, shall be fined one hundred dollars.

Sec. 1429. Recommendations of commissioner or employee. All recommendations to the governor of any person asking the appointment of another as commissioner shall be reduced to writing, signed by the person presenting the same, which shall be filed by the governor in his office and open at all reasonable times for public inspection, and all recommendations made by any person to the commissioner for the appointment of another within the power of the commissioner to appoint, shall be reduced to writing, signed by the person presenting the same, and filed by the commissioner and open for public inspection at all reasonable times. If any person recommending the appointment of another within the contemplation of this section refuses to reduce the same to writing, it shall be the duty of the person to whom the recommendation is made, to make a memorandum thereof, stating the name of the person recommended and the name of the person who made the same, which shall be filed in the office of the governor or the commissioner as the case may be.

Sec. 1430. Interest in affected business. It shall be unlawful for the commissioner to be financially interested in any business enterprise coming under or affected by this chapter during his term of office, and if he violates this statute, it shall be sufficient grounds for his removal from office, and in such case the governor shall

at once declare the office vacant and appoint another to fill the vacancy.

Sec. 1431. Duties. It shall be the duty of the commissioner:

1. To establish and enforce all necessary rules and regulations not in conflict with the provisions of this chapter and chapters 70 and 72 for carrying out the purposes thereof.

2. To prepare and distribute the necessary blanks relating to computation, adjustment, and settlement of compensation arising thereunder.

3. To preside as chairman of boards of arbitration for the settlement of controversies.

4. To keep records of all proceedings and decisions of such boards, issue subpoenas for witnesses, administer oaths, examine books and records of parties subject to such provisions.

5. In general to do all things not inconsistent with law in carrying out said provisions according to their true intent and purpose.

Sec. 1432. Biennial reports. The commissioner shall, at the time provided by law, make a biennial report to the governor setting forth in appropriate form the business and expense of the office for the two preceding years, the number of arbitrations and the results thereof, and such other matters pertaining to his office as may be of public interest, together with any recommendations for change or amendment of the laws as found in this chapter and chapters 70 and 72, and such recommendations, if any, shall be transmitted by the governor to the first general assembly in session thereafter.

Sec. 1433. Records of employer. All books, records, and pay rolls of the employers, showing or reflecting in any way upon the amount of wage expenditure of such employers, shall always be open for inspection by the industrial commissioner or any of his representatives presenting a certificate of authority from said commissioner for the purpose of ascertaining the correctness of the wage expenditure, the number of men employed, and such other information as may be necessary for the uses and purposes of the commissioner in his administration of the law.

Information so obtained shall be used for no other purpose than to advise the commissioner or insurance association with reference to such matters.

A refusal on the part of the employer to submit his books, records, or pay rolls for the inspection of the commissioner or his authorized representatives presenting written authority from the commissioner, shall subject the employer to a penalty of one hundred dollars for

each such offense, to be collected by civil action in the name of the state, and paid into the state treasury.

Sec. 1434. Reports of injuries. Every employer shall hereafter keep a record of all injuries, fatal or otherwise, sustained by his employees in the course of their employment and resulting in incapacity for a longer period than one day. Within forty-eight hours, not counting Sundays and legal holidays, after the employer has knowledge of the occurrence of an accident resulting in personal injury causing incapacity for a longer period than one day, a report shall be made in writing by the employer to the industrial commissioner on blanks to be procured from the commissioner for that purpose.

Sec. 1435. Additional reports. Upon the termination of the disability of the injured employee, or if such disability extends beyond a period of sixty days, at the expiration of such period the employer shall make a supplemental report on blanks to be procured from the commissioner for that purpose. The said reports shall contain the name and nature of the business of the employer, the location of the establishment, the name, age, sex, and occupation of the injured employee, and shall state the date and hour of the accident, the nature and cause of the injury, and such other information as may be required by the commissioner.

Any employer who fails to make the report required by this and the preceding section shall be liable to a penalty of fifty dollars for each offense, to be recovered by the commissioner. The commissioner shall be represented by the county attorney in the county in which such proceeding is brought.

Sec. 1436. Compensation agreements. If the employer and the employee reach an agreement in regard to the compensation, a memorandum thereof shall be filed with the industrial commissioner by the employer or employee, and unless the commissioner shall, within twenty days, notify the employer and employee of his disapproval of the agreement by registered letter sent to their addresses as given on the memorandum filed, the agreement shall stand approved and be enforceable for all purposes, except as otherwise provided in this and chapters 70 and 72.

In case the injured employee is a minor, either he or his trustee may execute the memorandum of agreement and may give a valid and binding release for the compensation paid on his account.

Such agreement shall be approved by said

commissioner only when the terms conform to the provisions of this and the preceding chapter.

Sec. 1437. Board of arbitration. If the employer and injured employee or his representatives or dependents fail to reach an agreement in regard to compensation, either party may file a petition and copy thereof with the industrial commissioner, stating therein his or her claims in general terms and asking that a board of arbitration be formed. Thereupon the commissioner shall in writing notify the parties to name their respective members of such board. Such board shall consist of three persons, one of whom shall be the industrial commissioner or his deputy, who shall act as chairman. The other two shall be named, respectively, by the two parties.

Sec. 1438. Waiver of right. If either party fails to appoint an arbitrator by the time fixed for hearing by the commissioner, such defaulting party shall be deemed to have waived the right to appoint an arbitrator and hearing shall proceed without such appointment. Parties may, in writing filed with the commissioner, waive the appointment of arbitrators and in such case the hearing shall proceed before the commissioner or his deputy with the same force and effect as if tried before a board with respective representatives.

Sec. 1439. Oath of arbitrators. The arbitrators appointed by the parties shall be sworn by the chairman to take the following oath:

I, _____, do solemnly swear (or affirm) that I will faithfully perform my duties as arbitrator and will not be influenced in my decision by any feeling of friendship or partiality toward either party.

(Signed) _____

Sec. 1440. Powers of board—hearings. The board of arbitration shall make such inquiries and investigations as it shall deem necessary. The hearings of the board shall be in the county where the injury occurred, but by written stipulation of the parties filed in the case it may be held at any other place in the state. If the injury occurred outside this state the hearings of the board shall be held in the county seat of this state which is nearest to the place where the injury occurred unless the interested parties and the industrial commissioner mutually agree by written stipulation that the same may be held at some other place.

Sec. 1441. Liberal rules of evidence. While sitting as a board of arbitration, or when conducting a hearing on review, or in making any investigation or inquiry, neither the board of arbitration nor the commissioner shall be bound

by common law or statutory rules of evidence or by technical or formal rules of procedure; but they shall hold such arbitrations, or conduct such hearings and make such investigations and inquiries in such manner as is best suited to ascertain and conserve the substantial rights of all parties thereto. Process and procedure under this chapter shall be as summary as reasonably may be.

Sec. 1412. Appointment of reporter. If either, or both, parties to any proceeding hereunder shall furnish compensation for a shorthand reporter in such reasonable amount as the commissioner shall fix, the commissioner shall appoint a reporter to report the proceedings of any hearing before the commissioner or a board of arbitration. The amount so paid shall be taxed as other costs. Any such reporter shall faithfully and accurately report any proceeding for which he or she shall be employed.

Sec. 1443. Transcript of evidence. The official shorthand reporter appointed for any hearing before the commissioner or a board of arbitration on written request by either party to the controversy, or by the commissioner, shall make a transcript of the evidence or so much thereof as shall be requested, to be paid for at the rate of not to exceed ten cents for each one hundred words. The transcript shall be paid for by the party requesting it, and if used as the record of the evidence on a review or appeal, the expense shall be taxed as part of the costs against the losing party, or apportioned as the case may be.

Sec. 1444. Depositions. The deposition of any witness may be taken and used as evidence in any hearing pending before a board of arbitration or the industrial commissioner in compensation proceedings.

Such depositions shall be taken in the same manner as provided for the taking of depositions for use in the district court, and when so taken shall be admissible in evidence in such hearings in the same manner, subject to the same rules governing the admission of evidence as in the district court.

Application for a commission to take depositions in such case shall be filed in the office of the clerk of the district court of the county wherein the injury occurred.

Sec. 1445. Witnesses—books and records. The district court is hereby empowered to enforce by proper proceedings the provisions of this chapter relating to the attendance and testimony of witnesses and the examination of books and records.

Sec. 1446. Findings of arbitration board filed. The decision of the board of arbitration, together with a statement or certificate of evidence submitted before it, its findings of fact, rulings of law, and any other matters pertinent to questions arising before it, shall be filed with the industrial commissioner.

Sec. 1447. Review. Any party aggrieved by the decision or findings of a board of arbitration may, within ten days after such decision is filed with the industrial commissioner, file in the office of the commissioner a petition for review, and the commissioner shall thereupon fix a time for the hearing on such petition and notify the parties.

At such hearing, the commissioner shall hear the parties, consider all evidence taken before the board of arbitration if it has been transcribed, and may hear any additional evidence, and he may affirm, modify, or reverse the decision of the board, or may remand it to the board for further findings of facts.

Additional evidence to that presented and admitted in arbitration proceedings shall not be introduced by either party unless such party gives the opposite party, or his attorney, five days' notice thereof in writing, stating the particular phase of the controverted claim to which such additional evidence will apply.

Sec. 1448. Decision and findings of fact. The decision of the industrial commissioner in any case on review before him shall be in writing, filed in his office, and shall set forth his findings of fact and conclusions of law.

Sec. 1449. Appeal. Any party aggrieved by any decision or order of the industrial commissioner in a proceeding on review, may within thirty days from the date such decision or order is filed, appeal therefrom to the district court of the county in which the injury occurred, by filing in the office of the commissioner a written notice of appeal setting forth in general terms the decision appealed from and the grounds of the appeal. The commissioner shall forthwith give notice to the other parties in interest.

Sec. 1450. Transcript on appeal. Within thirty days after a notice of appeal is filed with the commissioner, he shall make, certify, and file in the office of the clerk of the court to which the appeal is taken, a full and complete transcript of all documents in the case, including any depositions, and a transcript or certificate of the evidence, if reported, together with the notice of appeal.

Sec. 1451. Trial on appeal. The first term

after the appeal is taken shall be the trial term, and if the appeal is taken during a term, it shall be triable at that term at any time after ten days from the date of filing the transcript by the commissioner and ten days' notice in writing by either party upon the other. Such appeal shall have precedence on the docket and for trial over all other civil business except appeals of the same kind which shall be tried in the order in which they are filed, except as otherwise agreed in writing by all parties in interest and filed.

Sec. 1452. Record on appeal—finding of fact conclusive. The transcript as certified and filed by the industrial commissioner shall be the record on which the appeal shall be heard, and no additional evidence shall be heard. In the absence of fraud the findings of fact made by the industrial commissioner within his powers shall be conclusive.

Sec. 1453. Decision on appeal. Any order or decision of the industrial commissioner may be modified, reversed, or set aside on one or more of the following grounds and on no other:

1. If the commissioner acted without or in excess of his powers.

2. If the order or decree was procured by fraud.

3. If the facts found by the commissioner do not support the order or decree.

4. If there is not sufficient competent evidence in the record to warrant the making of the order or decision.

Sec. 1454. Judgment or order remanding. When the district court, on appeal, reverses or sets aside an order or decision of the industrial commissioner, it may remand the case to the commissioner for further proceedings in harmony with the holdings of the court, or it may enter the proper judgment, as the case may be. Such judgment or decree shall have the same force and effect as if action had been originally brought and tried in said court.

Sec. 1455. Costs on appeal. The clerk shall charge no fee for any service rendered in compensation cases except the filing fee and transcript fees when the transcript of a judgment is required. The taxation of costs in such appeals shall be in the discretion of the court.

Sec. 1456. Appeal to supreme court. An appeal may be taken to the supreme court from any final order, judgment, or decree of the district court, but such appeal shall be docketed, placed upon the term calendar, and submitted in the same time and manner as criminal cases in said court.

Sec. 1457. Review of award or settlement. Any award for payments or agreement for settlement made under this chapter where the amount has not been commuted, may be reviewed by the industrial commissioner at the request of the employer or of the employee at any time, and if on such review the commissioner finds the condition of the employee warrants such action, he may end, diminish, or increase the compensation so awarded or agreed upon.

Sec. 1458. Notice of review. When any interested party desires a review of payments or settlement as provided in the preceding section, he shall file a petition for review with the industrial commissioner setting forth the grounds upon which the right of review is claimed. The commissioner shall give the parties in interest notice of the time fixed for such hearing, which shall not be less than five days from the date of filing such petition.

Sec. 1459. Notice and service. Any notice to be given by the commissioner or court provided for in this chapter shall be in writing, but service thereof shall be sufficient if registered and deposited in the mail, addressed to the last known address of the parties, unless otherwise provided in this chapter.

Sec. 1460. Place of hearing. All petitions for review of the decision and findings of a board of arbitration shall be held at the seat of the government, and all petitions for review of payments or settlements shall be heard in the county where the injury occurred, provided, however, with the approval of the industrial commissioner the parties interested may agree upon another place of hearing.

Sec. 1461. Examination by physician. The industrial commissioner may appoint a duly qualified, impartial physician to examine the injured employee and make report. The fee for this service shall be five dollars to be paid by the industrial commissioner, together with traveling expenses, but the commissioner may allow additional reasonable amounts in extraordinary cases. Any physician so examining any injured employee shall not be prohibited from testifying before the industrial commissioner, board of arbitration, or any other person, commission, or court, as to the results of his examinations or the condition of the injured employee.

Sec. 1462. Fees—subject to approval. All fees or claims for legal, medical, hospital, and burial services rendered under this chapter and chapters 70 and 72 shall be subject to the ap-

proval of the industrial commissioner, and no lien for such service shall be enforceable without the approval of the amount thereof by the industrial commissioner. For services rendered in the district court and supreme court, the attorney's fee shall be subject to the approval of a judge of the district court.

Sec. 1463. Compensation of arbitrators. The arbitrators except the commissioner shall each receive five dollars as a fee for services, but the industrial commissioner may allow additional reasonable amounts in extraordinary cases. The fees shall be paid by the employer, who may deduct an amount equal to one-half the sum from any compensation found due the employee. All other costs incurred in the hearing before a board of arbitration or the commissioner shall be taxed in the discretion of such board or the commissioner as the case may be.

Sec. 1464. Witness fees. Witness fees and mileage on hearings before an arbitration board or the industrial commissioner shall be the same as in the district court.

Sec. 1465. Judgment by district court. Any party in interest may present a certified copy of an order or decision of the commissioner, or an award of a board of arbitration from which no petition for review has been filed within the time allowed therefor, or a memorandum of agreement approved by the commissioner, and all papers in connection therewith, to the district court of the county in which the injury occurred, whereupon said court shall render a decree or judgment in accordance therewith and cause the clerk to notify the parties. Such decree or judgment, in the absence of an appeal from the decision of the industrial commissioner, shall have the same effect and in all proceedings in relation thereto shall thereafter be the same as though rendered in a suit duly heard and determined by said court.

Sec. 1466. Judgment—modification of. Upon the presentation to the court of a certified copy of a decision of the industrial commissioner, ending, diminishing, or increasing the compensation under the provisions of this chapter, the court shall revoke or modify the decree or judgment to conform to such decision.

COMPENSATION LIABILITY INSURANCE

Chapter 72, Code of Iowa

Sec. 1467. Insurance of liability required. Every employer subject to the provisions of this and the two preceding chapters, unless relieved

therefrom as hereinafter provided, shall insure his liability thereunder in some corporation, association, or organization approved by the commissioner of insurance.

Every such employer shall exhibit, on demand of the insurance commissioner, evidence of his compliance with this section; and if such employer refuses, or neglects to comply with this section, he shall be liable in case of injury to any workman in his employ under the common law as modified by statute, and in the same manner and to the extent as though such employer had legally exercised his right to reject the provisions relating to compensation for injury to employees.

Sec. 1468. Notice of failure to insure. Any employer who fails to insure his liability as required herein shall keep posted a sign of sufficient size and so placed as to be easily seen by his employees in the immediate vicinity where working, which sign shall read as follows:

Notice to Employees.—You are hereby notified that the undersigned employer has failed to insure his liability to pay compensation as required by law, and that because of such failure he is liable to his employees in damages for personal injuries sustained by his employees in the same manner and to the same extent as though he had legally exercised his right to reject the provisions relating to compensation.

(Signed)-----

Any employer coming under the provisions of this and the two preceding chapters who fails to comply with this section or to post and keep the above notice in the manner and form herein required, shall be guilty of a misdemeanor.

Sec. 1469. Maximum commission for reinsurance. No insurer of any obligation under this chapter shall either by himself or through another, either directly or indirectly charge or accept as a commission or compensation for placing or renewing any insurance under this chapter, more than fifteen per cent of the premium charged.

Sec. 1470. Mutual companies. For the purpose of complying with this chapter, groups of employers by themselves or in an association with any or all of their workmen, may form insurance associations as hereinafter provided, subject to such reasonable conditions and restrictions as may be fixed by the insurance commissioner; and membership in such mutual insurance organization as approved, together with evidence of the payment of premiums due, shall be evidence of compliance with this chapter.

Sec. 1471. Benefit insurance. Subject to the approval of the industrial commissioner, any employer or group of employers may enter into

or continue an agreement with his or their workmen to provide a scheme of compensation, benefit, or insurance in lieu of compensation and insurance; but such scheme shall in no instance provide less than the benefits provided and secured, nor vary the period of compensation provided for disability or for death, or the provisions of law with respect to periodic payments, or the percentage that such payments shall bear to weekly wages, except that the sums required may be increased; and the approval of the industrial commissioner shall be granted, if the scheme provides for contribution by workmen, only when it confers benefits, in addition to those required by law, commensurate with such contributions.

Sec. 1472. Certificate of approval. When such scheme or plan is approved by the industrial commissioner, he shall issue a certificate to that effect, whereupon it shall be legal for such employer, or group of employers, to contract with any or all of his or their workmen to substitute such scheme or plan for the provisions relating to compensation and insurance during a period of time fixed by said department.

Sec. 1473. Termination of plan. Such scheme or plan may be terminated by the industrial commissioner on reasonable notice to the interested parties if it shall appear that the same is not fairly administered, or if its operation shall disclose latent defects threatening its solvency, or if for any substantial reason it fails to accomplish the purpose of this chapter; but from any such order of said industrial commissioner the parties affected, whether employer or workman, may, upon the giving of proper bond to protect the interests involved, appeal to the district court in the same time and manner as appeals from actions of the industrial commissioner, which appeal shall be tried as an equitable action.

Sec. 1474. Insolvency clause prohibited. No policy of insurance issued under this chapter shall contain any provision relieving the insurer from payment if the insured becomes insolvent or discharged in bankruptcy during the period that the policy is in operation, or the compensation, or any part of it, is unpaid.

Sec. 1475. Policy clauses required. Every policy shall provide that the workman shall have a first lien upon any amount becoming due on account of such policy to the insured from the insurer, and that in case of the legal incapacity, inability, or disability of the insured to receive the amount due and pay it over to the insured workman, or his dependents, said in-

surer shall pay the same directly to such workman, his agent, or to a trustee for him or his dependents, to the extent of any obligation of the insured to said workman or his dependents.

Sec. 1476. Other policy requirements. Every policy*issued by an insurance corporation, association, or organization to insure the payment of compensation shall contain a clause providing that between any employer and the insurer, notice to and knowledge of the occurrence of injury or death on the part of the insured shall be notice and knowledge on the part of the insurer; and jurisdiction of the insured shall be jurisdiction of the insurer, and the insurer shall be bound by every agreement, adjudication, award, or judgment rendered against the insured.

Sec. 1477. Relief from insurance. When an employer coming under this chapter furnishes satisfactory proofs to the insurance commissioner of such employer's solvency and financial ability to pay the compensation and benefits as by law provided and to make such payments to the parties when entitled thereto, or when such employer deposits with such commissioner security satisfactory to him and the industrial commissioner as guaranty for the payment of such compensation, such employer shall be relieved of the provisions of this chapter requiring insurance; but such employer shall, from time to time, furnish such additional proof of solvency and financial ability to pay as may be required by such insurance commissioner or industrial commissioner.

Any employer who has more than five persons engaged in hazardous employment, except the employments recited in section 1361 of the Code, and who has failed, omitted, and neglected to secure the payment of compensation by carrying insurance or is not relieved therefrom as by the statutes in such cases provided, shall furnish a bond approved by the Iowa industrial commissioner, as to form and security, conditioned to secure and pay workmen's compensation in accordance with the law; such bond shall be in such amount as may be fixed by the Iowa industrial commissioner having due regard for the number of employees and considering the industrial experience in such industry as a class.

Such employer shall post and keep posted in some conspicuous place upon the premises where the business is conducted, a notice in form approved by the industrial commissioner, stating the nature of the security furnished by such employer to secure the compensation payments contemplated by the law.

It shall be the duty of each coal mine inspec-

tor in his inspection district to report to the industrial commissioner, on blanks furnished by the commissioner, any employer who has failed, omitted, or neglected to comply with the provisions of the law with reference to the posting and keeping posted the notice as provided by law, with such other information required by the commissioner, and it shall be the duty of each factory inspector to perform like service in their respective districts.

Upon the receipt of information by the Iowa industrial commissioner of any employer failing to comply with this act, he shall at once notify such employer by registered mail, that unless such employer comply with the requirements of law, legal proceedings will be instituted to enforce such compliance.

Unless such employer comply with the provisions of the law within 15 days after the giving of such notice, the Iowa industrial commissioner shall report such failure to the attorney general, whose duty it shall be to bring an action in a court of equity to enjoin the further violation of this act. Upon decree being entered for a temporary or permanent injunction, a violation shall be a contempt of court and punished as provided for contempt of court in other cases.

Sec. 1478. Revocation of release from insurance. The insurance commissioner with the concurrence of the industrial commissioner may, at any time, upon reasonable notice to such employer and upon hearing, revoke for cause any order theretofore made relieving any employer from carrying insurance as provided by this chapter.

Sec. 1479. Employer failing to insure. When any employer has more than five persons employed in hazardous employment, excepting the employments recited in the first section of chapter 70, and such employer has elected to reject the compensation provisions of said chapter, or when any such employer has not rejected the terms and provisions thereof by filing and posting notices as provided in chapter 70 but has failed to insure his or its liability in one of the ways provided in this chapter, unless relieved from carrying such insurance as provided in the second preceding section, then any such employer's employee who has not rejected the provisions of this chapter, in case of personal injury in the course of, and arising out of such employment, shall have the right to elect to collect compensation as provided in chapters 70 and 71, or collect damages at common law as modified by said chapter 70.

Sec. 1480. Manner of election. Any employee

entitled to make an election as provided in the preceding section shall do so in writing signed by himself indicating the election, made and filed with the industrial commissioner within sixty days after receiving an injury for which such employee is entitled to either compensation or damages.

If such injured employee or one having the right to elect for him, fails to make an election within sixty days, then and in that event it shall be conclusively presumed that the employee elected to accept compensation according to the schedule of compensation as provided in chapter 70.

Sec. 1481. Notice to employer of election. Within five days after a written election has been filed in the office of the industrial commissioner as provided in the preceding section, the commissioner shall give notice thereof in writing to the employer by registered mail as provided for giving other notice by the commissioner.

DEPARTMENT RULES AND SUGGESTIONS

It should be understood that all employments except agricultural and domestic are within compensation jurisdiction. The only way for an employer to avoid its requirements is through the terms of rejection provided by statute.

Casual employment cannot be successfully plead in avoidance of compensation obligation except in cases where injury occurs in employment which is not for the promotion of the employers' trade or business.

Hearings in review of the findings of an arbitration committee are held by the commissioner in his office at Des Moines. Hearings in review upon a reopening where payment has been suspended will be held, after July 4, 1929, in the county where the injury occurred.

Independent employment is not subject to compensation provisions. This term applies to employment relationship in which the workman is not subject to supervision, direction or control as to methods exercised in performance or as to particular hours of service—being held in obligation to the employer only as to the results of his labor.

In cases of dependency, employers and insurers are required to deal directly with beneficiaries except when such beneficiaries are minors or mentally incompetent. In such exceptional cases the compensation trustee provided by

statute must act for dependents. Administrators have no relationship with this jurisdiction, except in cases of benefits accrued and unpaid at the death of the workman.

In all ordinary cases of single hernia, the charge for surgical and medical services must not exceed \$75.00.

Under the terms of section 1462 of the code all medical, surgical and burial charges are subject to the approval of the industrial commissioner. When controversy arises as to medical, surgical or hospital charges, necessary adjustment is made after seeking explanation from physician or hospital concerned and with the advice of our medical counsel.

The forty-third general assembly increased the statutory amount available for medical, surgical and hospital service from \$200.00 to \$300.00. This increase is solely for the purpose of taking care of reasonable charges for necessary service and must not be considered as indicating any departure from the rule of prudent expenditure as heretofore approved by this department.

Commuted settlement can occur only in cases where agreement on file definitely indicates the full measure of payment due to a workman or his dependents. Then such settlement is not approved unless it plainly appears to be for the best interest of the beneficiary and not prejudicial to employer or insurer. With the consent of the defendants approval of the commissioner completes the process without reference to the court.

In all cases of dependency on the part of a widow and her children, payment must be made directly to the mother regardless as to whether or not she has re-married, unless departure from this rule is ordered under the provisions of section 1403.

It is held by the Iowa supreme court that an official of a corporation or an employee invested with substantial managerial authority are excluded from compensation benefits.

The state, county, municipal corporation or school district is held to statutory compensation liability as are other employers of labor. When insurance is not carried the employer becomes directly responsible. The statute denies compensation relief to officials elected or appointed, except as to peace officers under the provisions of section 1422 of the code.

The civil township is not included in compensation jurisdiction.

The forty-third general assembly made only three amendments to the compensation law: namely, increasing the medical and hospital al-

lowance, providing that rehearings shall be held in the county of the accident, and adding to the insurance sections a proviso that certain uninsured employers are required to put up a bond and post notice of intent to operate under the law. These amendments all go into effect July 4, 1929.

Injury cumulative in development during several or more days is not subject to compensation relief. Compensable injury must have its origin in some definite disabling incident of employment occurring at a particular point of time.

Report must be made by employer of every injury causing incapacity for more than one day. Standard blanks are furnished by the department for this purpose. The duty of making the report must not be left to others. Reports go direct to the industrial commissioner.

The employer has the right and duty to direct the medical aid. Only under special conditions should this rule be departed from. Employer and employee should cooperate at all times in order to accomplish the ends of the law.

It is the duty of the employer to report to the commissioner the date of termination of temporary disability. This should be based on report of the attending physician. Extent of permanent disability should also be reported in the same way.

When the employer, or his insurance carrier, has closed a case, there should be filed a final receipt showing the total of payments, signed by the injured employee, a trustee or the dependent beneficiary. Signing of such receipt, no matter how worded, does not affect any right of either party in case it is shown that the case has not been properly closed.

The weekly compensation rate is computed by multiplying the actual regular daily wage at the time of the injury by 300, dividing the result by 52, and taking 60 per cent of same for the statutory compensation rate. If the service is one in which the regular yearly working time is less than 300 days the daily wage should be multiplied by the average working days in that employment. The compensation rate is subject to a maximum of \$15 per week and minimum of \$6.00, except where the weekly earnings are less than \$6.00. In certain cases where the workman has more than one regular employment his entire earnings must be taken into consideration.

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