

Conflicting
acts
repealed.

SEC. 25. All Acts and parts of Acts, whether general, special, or local, which relate to the same subject matter as this Act, so far as they are inconsistent with the provisions of this Act, are hereby repealed.

Partial
invalidity.

SEC. 26. If any clause, sentence, section, provision, or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect, or invalidate the remainder of this Act, which shall remain in full force and effect thereafter.

Title.

SEC. 27. This Act shall be known as the Small Loan Act.

Passed the Senate February 18, 1941.

Passed the House March 11, 1941.

Approved by the Governor March 24, 1941.

CHAPTER 209.

[S. B. 172.]

WORKMEN'S COMPENSATION SCHEDULE.

AN ACT relating to extra-hazardous employments and to the compensation and remedies of workmen injured therein, and of their dependents, invalid children and beneficiaries in case of death; and amending sections 5 and 7 of chapter 74, Laws of 1911, as last amended by section 2 and 3 of chapter 132, Laws of 1929 (sections 7679 and 7681, Remington's Revised Statutes; sections 3472 and 3475, Pierce's Code).

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Section 5 of chapter 74, Laws of 1911, as last amended by section 2 of chapter 132, Laws of 1929 (section 7679, Remington's Revised Statutes; section 3472, Pierce's Code), is hereby amended to read as follows:

Section 7679. Each workman who shall be injured in the course of his employment, or his family

Amend-
ments.

or dependents in case of death of the workman, shall receive out of the accident fund compensation in accordance with the following schedule, and, except as in this Act otherwise provided, such payment shall be in lieu of any and all rights of action whatsoever against any person whomsoever.

Lieu
payments.

COMPENSATION SCHEDULE.

Schedule.

(a) Where death results from the injury the expenses of burial not to exceed one hundred fifty dollars (\$150) shall be paid to the undertaker conducting the funeral: *Provided*, That no sum shall be paid an undertaker for the burial expenses where the deceased left a widow or an orphan child or children unless the undertaker shall make and file with the department an affidavit that no part of the burial expenses have been either directly or indirectly paid by or charged to the widow or orphan child or children.

Burial
expenses.

Proviso.

(1) If the workman leaves a widow or invalid widower, a monthly payment of fifty dollars (\$50) shall be made throughout the life of the surviving spouse, to cease at the end of the month in which remarriage shall occur, and the surviving spouse shall also receive per month for each child of the deceased under the age of eighteen years at the time any monthly payment is due the following payments: For the youngest or only child fifteen dollars (\$15), for the next or second youngest child ten dollars (\$10), and for each additional child seven dollars and fifty cents (\$7.50): *Provided*, That in addition to the monthly payments above provided for, a surviving widow of any such deceased workman shall be forthwith paid the sum of two hundred and fifty dollars (\$250).

Monthly
compensa-
tion to
survivor.

Cease upon
remarriage.

Schedule
for minor
children.

Payment
upon death.

Upon remarriage of a widow she shall receive once and for all, a lump sum of one thousand dollars (\$1,000), but the monthly payments for the child or children shall continue as before.

Payment to
widow upon
remarriage.

(2) If the workman leave no wife or husband,

Payment for
children to
continue.

Payment
schedule for
orphan
minors.

but an orphan child or children under the age of eighteen years, a monthly payment of twenty-five dollars (\$25) shall be made to each such child until such child shall reach the age of eighteen years, but the total monthly payment shall not exceed one hundred dollars (\$100) and any deficit shall be deducted proportionately among the beneficiaries.

Payment
to other
dependents.

(3) If the workman leaves no widow, widower or child under the age of eighteen years, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to fifty per cent of the average monthly support actually received by such dependent from the workman during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case shall not exceed fifty dollars (\$50) per month. If any dependent is under the age eighteen years at the time of the occurrence of the injury, the payment to such dependent shall cease when such dependent shall reach the age of eighteen years. The payment to any dependent shall cease if and when, under the same circumstances, the necessity creating the dependency would have ceased if the injury had not happened.

Maximum.

Payment to
parents.

If the workman is under the age of twenty-one years and unmarried at the time of his death, the parents or parent of the workman shall receive twenty-five dollars (\$25) per month for each month after his death until the time at which he would have arrived at the age of twenty-one years.

Payments to
minors upon
death of
surviving
spouse.

(4) In the event a surviving spouse receiving monthly payments shall die, leaving a child or children under the age of eighteen years, such child or children shall receive each the sum of twenty-five dollars (\$25) per month until arriving at the age of eighteen years, but the total monthly payment shall not exceed one hundred dollars (\$100) and any deficit shall be deducted proportionately among the beneficiaries.

(b) Permanent total disability means loss of both legs, or arms, of one leg and one arm, total loss of eyesight, paralysis or other condition permanently incapacitating the workman from performing any work at any gainful occupation.

Permanent total disability: Defined.

When permanent total disability results from the injury, the workman shall receive monthly during the period of such disability: (1) If unmarried at the time of the injury, the sum of fifty dollars (\$50).

Rate for.

(2) If the workman have a wife or invalid husband, but no child under the age of eighteen years, the sum of sixty dollars (\$60).

If the husband is not an invalid the monthly payment of sixty dollars (\$60) shall be reduced to twenty-five dollars (\$25) as long as they are living together as husband and wife.

(3) If the workman have a wife or husband and a child or children under the age of eighteen years, or being a widow or widower, having any such child or children, the monthly payment in the preceding paragraph shall be increased by fifteen dollars (\$15) for the youngest or only child, ten dollars (\$10) for the next or second youngest child, and seven dollars and fifty cents (\$7.50) for each additional child under the age of eighteen years.

(4) In case of total permanent disability, if the character of the injury is such as to render the workman so physically helpless as to require the services of an attendant, the monthly payment to such workman shall be increased thirty-five dollars (\$35) per month as long as such requirement shall continue, but such increases shall not obtain or be operative while the workman is receiving care under or pursuant to any of the provisions of sections 7712 to 7725, inclusive, of this code.

(c) If the injured workman die, during the period of permanent total disability, whatever the cause of death, leaving a widow, invalid widower or

Rates for
total
permanent
disability.

child under the age eighteen years, the surviving widow or invalid widower shall receive fifty dollars (\$50) per month until death or remarriage, to be increased per month for each child of the deceased under the age of eighteen years at the time any monthly payment is due, as follows: For the youngest or only child fifteen dollars (\$15), for the next or second youngest child ten dollars (\$10), and for each additional child seven dollars and fifty cents (\$7.50); but if such child is or shall be without father or mother, such child shall receive twenty-five dollars (\$25) per month until arriving at the age of eighteen years. Upon remarriage the payments on account of the child or children shall continue as before to such child or children.

Child in
institution
not to receive
payments.

An invalid child while being supported and cared for in a state institution shall not receive compensation under this Act. If an injured workman, or the surviving spouse of an injured workman shall not have the custody of a minor child for, or on account of, whom payments are required to be made under this section, such payment or payments shall be made to the person having the lawful custody of such minor child.

Must have
custody.

Total
temporary
disability.

(d) (1) When the total disability is only temporary, the schedule of payments contained in paragraphs (1), (2) and (3) of the foregoing subdivision (b) shall apply, so long as the total disability shall continue,

Rates.

(2) but if the injured workman have a wife or husband and have no child or have a wife or husband, or being a widow or widower, with one or more children under the age of eighteen years, the compensation for the case during the first six months or such lesser period of time as the total temporary disability shall continue, shall be per month as follows, to-wit: Injured workman whose husband is not an invalid, twenty-two dollars and fifty cents (\$22.50) and seven

dollars and fifty cents (\$7.50) for each child; injured workman with wife or invalid husband and no child, fifty dollars (\$50); injured workman with wife or invalid husband and one child, or being a widow or widower and having one child, sixty-five dollars (\$65); injured workman with a wife or invalid husband and two children, or being a widow or widower and having two children, seventy-five dollars (\$75), and seven dollars and fifty cents (\$7.50), for each additional child.

Rates for total temporary disability.

Should a workman suffer a temporary total disability, and should his employer, at the time of his injury, continue to pay him the wages which he was earning at the time of such injury, such injured workman shall not receive any payment provided in paragraph (d) subdivision (1) from the accident fund during the period his employer shall so pay such wages.

Payment of wages during disability. Exemption.

(3) If such temporary total disability shall endure longer than said six months' period, the schedule of compensation continued in paragraphs (1), (2) and (3) of the foregoing subdivision (b) shall at the end of said six months' period again obtain.

Disability for more than six months.

(4) As soon as recovery is so complete that the present earning power of the workman, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments shall cease. If and so long as the present earning power is only partially restored, the payments shall continue in the proportion which the new earning power shall bear to the old. No compensation shall be payable out of the accident fund unless the loss of earning power shall exceed five per cent.

Payments to cease upon regaining earning power.

Restriction.

No payment shall be made to or for a natural child of a deceased workman, and at the same time, as the step-child of a deceased workman.

No duplicate payments.

(e) There is hereby created in the office of the State Treasurer a fund to be known and designated

Reserve fund. as the reserve fund out of which shall be made the
 payments specified in this section for all cases of
 Purpose. death or permanent total disability including future
 payments to be made for the cases of that character
 which have heretofore arisen. Into the reserve fund
 Contents. there shall be forthwith placed all unexpended funds,
 in cash or invested, heretofore set aside for cases re-
 quiring a reserve. For every case resulting in death
 or permanent total disability hereafter arising it
 shall be the duty of the Department to make transfer
 Transfer from acci- on their books from the accident fund of the proper
 dent fund class to the reserve fund a sum of money for that case
 upon death. equal to the estimated present cash value of the
 monthly payments provided for it, to be calculated
 Basis. upon the basis of an annuity covering the payments
 in this section provided to be made for the case. Such
 annuities shall be based upon tables to be prepared
 for that purpose by the State Insurance Commis-
 sioner and by him furnished to the State Treasurer,
 calculated upon standard mortality tables with an
 interest assumption of three (3) per cent per annum.

Investment The Department shall notify the State Treasurer
 of fund. from time to time of such transfers as a whole and
 the State Treasurer shall invest the reserve in either
 state capitol building bonds issued to take up capitol
 building warrants now outstanding, or in the class of
 securities provided by law for the investment of the
 permanent school fund, and the interest or other
 earnings of the reserve fund shall become a part of
 the reserve fund itself. The Department shall, on
 Apportion- October 1st of each year, apportion the interest or
 ment of other earnings of the reserve fund as certified to it
 interest. by the State Treasurer, to the various class reserve
 funds according to the average class balance for the
 preceding year. As soon as possible after October 1st
 of each year, beginning in the year 1927, the State
 Insurance Commissioner shall expert the reserve
 fund of each class to ascertain its standing as of Octo-

Duty of Ins. Commissioner.

ber 1st, of that year, and the relation of its outstanding annuities at their then value to the cash on hand or at interest belonging to that fund. He shall promptly report the result of his examination to the Department and to the State Treasurer in writing not later than December 31st, following. If the report shows that there was on said October 1st, in the reserve fund of any class in cash or at interest a greater sum than the then annuity value of the outstanding pension obligations of that class, the surplus shall be forthwith turned over to the accident fund of that class, but if the report shows the contrary condition of any class reserve, the deficiency shall be forthwith made good out of the accident fund of that class. The State Treasurer shall keep accurate accounts of the reserve fund and the investment and earnings thereof, to the end that the total reserve funds shall at all times, as near as may be, be properly and fully invested, and to meet current demands for pension or lump sum payments may, if necessary, make temporary loans to the reserve fund out of the accident fund for that class, repaying same from the earnings of that reserve fund or from collections of its investments, or, if necessary, sales of the same.

Report of Commissioner.

Surplus to accident fund.

Deficit from accident fund.

(f) Permanent partial disability means the loss of either one foot, one leg, one hand, one arm, one eye, one or more fingers, one or more toes, any dislocation where ligaments were severed where repair is not complete, or any other injury known in surgery to be permanent partial disability. For the permanent partial disabilities here specifically described, the injured workman shall receive compensation as follows:

Permanent partial disability: Defined.

LOSS BY AMPUTATION

Schedule of payments.

Of one leg so near the hip that an artificial limb cannot be worn.....	\$3,600.00
Of one leg at or above the knee so that an artificial limb can be worn.....	2,740.00
Of one leg below the knee.....	1,870.00

Schedule of
payments.

Of great toe with metatarsal bone thereof.....	\$580.00
Of great toe at the proximal joint.....	360.00
Of great toe at the second joint.....	130.00
Of one other toe other than the great toe with meta- tarsal bone thereof.....	200.00
Of second toe at proximal joint.....	90.00
Of third toe at proximal joint.....	90.00
Of fourth toe at proximal joint.....	90.00
Of fifth toe at proximal joint.....	40.00
Of metatarsal bone on toe other than great toe.....	100.00
Of one arm so near the shoulder that an artificial arm cannot be worn.....	3,600.00
Of the major arm at or above the elbow.....	2,740.00
Of forearm at upper third.....	2,520.00
Of the major hand at wrist.....	2,305.00
Of thumb with metacarpal bone thereof.....	870.00
Of thumb at proximal joint.....	575.00
Of thumb at second joint.....	215.00
Of index or first finger at proximal joint.....	470.00
Of index or first finger at second joint.....	395.00
Of index or first finger at distal joint.....	180.00
Of middle or second finger at proximal joint.....	360.00
Of middle or second finger at second joint.....	300.00
Of middle or second finger at distal joint.....	100.00
Of ring or third finger at proximal joint.....	325.00
Of ring or third finger at second joint.....	250.00
Of ring or third finger at distal joint.....	100.00
Of little or fourth finger at proximal joint.....	125.00
Of little or fourth finger at second joint.....	90.00
Of little or fourth finger at distal joint.....	35.00
Of metacarpal bone in finger except thumb.....	90.00

MISCELLANEOUS

Loss of one eye by enucleation.....	1,725.00
Loss of sight of one eye.....	1,295.00
Complete loss of hearing in both ears.....	2,735.00
Complete loss of hearing in one ear.....	720.00
Complete broken arch in foot.....	720.00

Other
payments.

Compensation for any other permanent partial disability shall be in the proportion which the extent of such other disability shall bear to that above specified, which most closely resembles and approximates in degree of disability such other disability, but not in any case to exceed the sum of three thousand six hundred dollars (\$3,600): *Provided*, That for disability to a member not involving amputation, not more than three-fourths ($\frac{3}{4}$) of the foregoing re-

Proviso.

spective specified sums shall be paid: *Provided, further*, That payment for any injury to minor hand or arm or any part thereof, shall not exceed ninety-five (95) per centum of the amounts hereinbefore enumerated. Proviso.

If the injured workman be under the age of twenty-one years and unmarried, the parents or parent shall also receive a lump sum payment equal to ten per cent of the amount awarded to the minor workman. Payment to parents of unmarried workman.

(g) Should a further accident occur to a workman who has been previously the recipient of a lump sum payment under this act, his future compensation shall be adjudged according to the other provisions of this section and with regard to the combined effect of his injuries and his past receipt of money under this act. Further accidents.

Should a workman receive an injury to a member or part of his body already from whatever cause permanently partially disabled, resulting in the amputation thereof or in an aggravation or increase in such permanent partial disability but not resulting in the permanent total disability of such workman, his compensation for such permanent partial disability shall be adjudged with regard to the previous disability of the injured member or part and the degree or extent of the aggravation or increase of disability thereof.

Should any further accident result in the permanent total disability of such injured workman, he shall receive the pension to which he would be entitled notwithstanding the payment of a lump sum for his prior injury.

(h) If aggravation, diminution, or termination of disability takes place or be discovered after the rate of compensation shall have been established or compensation terminated, in any case the Director of Labor and Industries, through and by means of Aggravation, etc.

Application
for readjust-
ment.

the Division of Industrial Insurance, may, upon the application of the beneficiary, made within five years after the establishment or termination of such compensation, or upon his own motion, readjust for further application the rate of compensation in accordance with the rules in this section provided for the same, or in a proper case terminate the payment: *Provided*, Any such applicant whose compensation has heretofore been established or terminated shall have five (5) years from the taking effect of this act within which to apply for such readjustment.

Proviso.

No act done or ordered to be done by the Director of Labor and Industries, or the Department of Industrial Insurance, prior to the signing and filing in the matter of a written order for such readjustment, shall be ground for such readjustment: *Provided, however*, That if within the time limited for taking an appeal from an order closing a claim, the Department shall order the submission of further evidence or the investigation of any further fact, the time for appeal from such order closing the claim shall be extended until the applicant shall have been advised in writing of the final order of the Department in the matter.

Beneficiary
restriction.

(i) A husband or wife of an injured workman, living in a state of abandonment for more than one year at the time of the injury or subsequently, shall not be a beneficiary under this act. A wife who has lived separate and apart from her husband for the period of two years and who has not, during that time, received, or attempted by process of law to collect, funds for her support or maintenance, shall be deemed living in a state of abandonment.

Department
may grant
settlement
upon removal
from state.

(j) If a beneficiary shall reside or remove out of the State the Department may, in its discretion, with the written consent of the beneficiary, convert any monthly payments provided for such cases into a lump sum payment (not in any case to exceed

the value of the annuity then remaining, to be fixed and certified by the State Insurance Commissioner, but in no case to exceed the sum of five thousand dollars (\$5,000). Limit.

(k) No workman injured after June 30th, 1923, shall receive or be entitled to receive compensation out of the accident fund for or during the day on which injury was received or the three days following the same. Payments to commence.

(l) If it be determined by the Department of Labor and Industry that an injured workman had, at the time of his injury, a pre-existing disease and that such disease delays or prevents complete recovery from such injury the said Department shall ascertain, as nearly as possible, the period over which the injury would have caused disability were it not for the diseased condition and/or the extent of permanent partial disability which the injury would have caused were it not for the disease, and award compensation only therefore [therefor]. Pre-existing disease affecting recovery.

SEC. 2. Section 7 of chapter 74, Laws of 1911, as last amended by section 3 of chapter 132, Laws of 1929 (section 7681 of Remington's Revised Statutes; section 3475, Pierce's Code), is hereby amended to read as follows: Amendments.

Section 7681. In case of death or permanent total disability the monthly payment provided may be converted, in whole or in part, into a lump sum payment, not in any case to exceed five thousand dollars (\$5,000), equal or proportionate as the case may be to the value of the annuity then remaining, to be fixed and certified by the State Insurance Commissioner, in which event the monthly payment shall cease in whole or in part accordingly or proportionately. Such conversions may only be made after the happening of the injury and upon the written application of the beneficiary (in case of minor children the application may be by either Settlement by lump sum.

parent) to the Department, and shall rest in the discretion of the Department. Within the rule aforesaid the amount and value of the lump sum payment may be agreed upon between the Department and the beneficiary. In the event any payment shall be due to an alien residing in a foreign country, the Department may settle the same by making a lump sum payment in such amount as may be agreed to by such alien, not to exceed 50% of the value of the annuity then remaining.

Settlement
to aliens.

Department
authority.

Nothing herein contained shall preclude the Department from making, and authority is hereby given it to make, on its own motion, lump sum payments equal or proportionate, as the case may be, to the value of the annuity then remaining, in full satisfaction of claims due to dependents.

Dependent
invalid over
18 same
status as
child under
18.

SEC. 3. A dependent invalid child over the age of eighteen years shall have the same status under this act as a child under the age of eighteen years. Wherever provision is made in this act for payment to or on account of a child under eighteen years, like payment shall be deemed to be provided to or on account of a dependent invalid child over the age of eighteen years during the period of such dependency.

Passed the Senate March 13, 1941.

Passed the House March 12, 1941.

Approved by the Governor March 24, 1941.