

**WORKMEN'S  
COMPENSATION LAW OF  
THE STATE OF NEW YORK**

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Workmen's Compensation Law of the State of New York by Various

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**VARIOUS**

**WORKMEN'S  
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THE STATE OF NEW YORK**



**Workmen's Compensation Law**  
of the  
**State of New York**

DEPT. OF  
CALIFORNIA

Reprinted January, 1914

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## DIGEST OF THE NEW YORK WORKMEN'S COMPENSATION LAW\*

### TITLE, ETC.

Chapter 816, Laws of New York, 1913, being "Chapter 67 of The Consolidated Laws," and entitled "Workmen's Compensation Law." Approved Dec. 16, 1913. Administrative provisions effective January 1, 1914; liability provisions effective July 1, 1914 (Sec. 131). Repeals Chapter 674, Laws of 1910 (Sec. 130); which was declared unconstitutional in *Ives vs. South Buffalo Ry. Co.*, 201 N. Y. 271 (Chapter 352, Laws of 1910, legalizing the adoption of a compensation plan, in a wider range of employments, by agreement, is not repealed).

### SYSTEM

Compensation with insurance or proof of financial responsibility, compulsory (Secs. 10 and 50). Supervised and to a large extent administered by "State Workmen's Compensation Commission" (Art. 4). All payments to be made through the Commission or an authorized deputy (Sec. 25), subject to heavy penalties for defaults (Sec. 26).

### "CONTRACTING OUT"

Agreements to waive right to compensation, void (Sec. 82). Agreements for contribution by employees void (Sec. 31).

### EMPLOYMENTS COVERED

All employments by a private employer in certain hazardous occupations enumerated (Sec. 2), if carried on by the employer for pecuniary gain (Sec. 3 (5)); farm labor and domestic service, however, expressly excepted (Sec. 3(4)). (But as to employment in interstate commerce see Sec. 114).

### INJURIES COVERED

Accidental personal injuries arising out of and in the course of the employment, unless due to intent to injure self or another or to intoxication while on duty (Secs. 10 and 3(7)).

### NOTICE OF INJURY AND CLAIM FOR COMPENSATION

Written notice containing prescribed particulars must be served on employer and Commission within 10 days after disability or 30 days after

\*The headings of this "Digest" conform in substance and order with those of the "Digest of Workmen's Compensation and Insurance Laws in the United States" (published under the auspices of the Workmen's Compensation Publicity Bureau, 80 Maiden Lane, New York City)—so that the former supplements the latter.

death. Failure to do so bars claim, unless excused by Commission (Sec. 18). Claim must be made within one year after injury or death (Sec. 28). But no time limitation runs against one mentally incompetent or a minor so long as he has no guardian, etc. (Sec. 116).

#### "WAITING PERIOD"

First 14 days of disability (Sec. 12).

#### MEDICAL AND SURGICAL AID

Such medical, surgical and hospital services, including crutches, apparatus, etc., as required or requested by employee, must be furnished by employer during 60 days after injury. Charges therefor subject to regulation by commission and limited to those that prevail in the same community for similar treatment of persons of a like standard of living (Sec. 13).

#### COMPENSATION FOR TOTAL DISABILITY

66 2-3% of average weekly wages; maximum \$15, minimum \$5 or full wages, per week; if permanent, for life; if temporary, during disability but not to exceed in aggregate \$3,500. Certain severe injuries presumed to constitute permanent total disability (Secs. 14 and 15 (1) (2) (5) (6)).

#### COMPENSATION FOR PARTIAL DISABILITY

Schedule of special compensation for certain specified injuries; exclusive; for loss of a hand, arm, foot, leg or eye, maximum \$20, minimum \$5, per week. In other cases, 66 2-3% of reduction in earning capacity; during disability. Except for injuries specified above, maximum \$15, minimum \$5 or full wages, per week; but in case of temporary partial disability not to exceed in aggregate \$3,500 (Secs. 14 and 15 (3) (4) (5) (6)).

#### COMPENSATION FOR DEATH

In all cases, reasonable funereal expenses, not to exceed \$100. 30% of wages to wife or dependent husband during widowhood or dependency (two years' extra benefits to widow upon remarriage), with 10% additional for each child under 18, until that age is reached. If no widow or dependent widower, 15% to each child. And 15% each to dependent grandchildren, brothers and sisters under 18 and to dependent parents and grandparents, subject, however, to preference of widow or dependent widower and children, if any, for their full benefits. Total benefits limited to 66 2-3% of wages. Excess of wages over \$100 per month not to be reckoned in computing death benefits (Secs. 14 and 16).

#### WHO ARE DEPENDENTS

Dependency not defined; to be determined in accordance with conditions at time of accident. Beneficiaries are limited to widow or dependent widower, children, dependent grandchildren, brothers and sisters under 18 years of age and dependent parents and grandparents (Sec. 16). "Child" defined (Sec. 3).



### NON-RESIDENT ALIENS

Non-resident (or about to become non-resident) alien dependents are entitled to full benefits; but the Commission may, or, upon application of insurer, must commute future installments of their compensation to a lump sum equal to one-half the present value thereof. Canadians are not classed as aliens (Sec. 17).

### EXAMINATIONS

Injured employee must submit to medical examination from time to time when requested by Commission, as may be provided by its rules. Insurer and employee may have their respective physicians present. Refusal to submit forfeits right to compensation for period of refusal (Sec. 19).

### DETERMINATION OF CLAIMS

All claims are to be adjusted and determined by Commission; and its decisions are final on all questions of fact, and on all questions of law except as provided in Sec. 23 (Sec. 21). Appeals, within 30 days to Appellate Division, Third Department. If claim not against State Fund, Commission may also certify questions to the Court (Sec. 23). Claims may not be released nor commuted by agreement between the parties (Sec. 33).

### MODIFICATION OF AWARDS

Upon its own motion or upon the application of any party in interest, at any time, the Commission may review and modify an award (Sec. 22). The Commission's jurisdiction is continuing, and, from time to time, it may modify any former orders or findings as it may deem just (Sec. 74).

### COMMUTATIONS

The Commission may commute periodical payments to one or more lump sum payments whenever, in the interest of justice, it shall so deem advisable (Sec. 25). Whenever possible to compute the present value of all future payments, the Commission may permit or require the payment of the amount thereof into the State Fund, whereby that fund assumes the liability and the party originally liable is discharged (Sec. 27).

### PREFERENCE

A claim for compensation has the same preference or lien without limit of amount as a claim for unpaid wages of labor (Sec. 34).

### ASSIGNMENTS—EXEMPTIONS

Claims for compensation may not be assigned, released or commuted, except as provided in the Act. Compensation is exempt from all claims of creditors and from levy, execution, attachment, etc. (Sec. 33).

## FEES AND LIENS

Claims for legal services and for services of physicians or hospitals are not enforceable, unless approved by Commission. If so approved, a claim becomes a lien upon the award, but is payable only in manner fixed by the Commission (Sec. 24).

## SUBBROGATION

If employee is injured by negligence of a third party not in same employ, he has option either to take compensation or to sue such third party for damages. If first alternative is elected, he must assign claim for damages to party liable for compensation. If second alternative is elected, the party liable for compensation need pay only the deficiency, if any, between amount of damages recovered and total amount of compensation (Sec. 29).

## SUITS FOR DAMAGES

If the employer has not secured the payment of compensation as required by Article 3, the injured employee has option either to recover compensation of the employer or to sue him for full damages; and in such suit for damages the employer's common law defenses are abrogated (Secs. 11 and 52).

## INSURANCE

Insurance in the State Fund or in some authorized company or mutual association is compulsory, with alternative to employer to carry his own risks upon proof of responsibility satisfactory to Commission, etc. (Sec. 50). Employer must post notices of compliance (Sec. 51).

"The State Insurance Fund," to be managed by the Commission, is created, exempt from the common requirements as to reports, reserves, etc., and from supervision by Insurance Department, but subject to special provisions as to reports, reserves, assessments, etc. For three years its administration expenses are to be paid by State. Employers insuring therein may withdraw at any time, but remain liable for assessments for one year thereafter (Art. 5). And employers insuring therein are relieved from all liability to employees (Sec. 53).

Every policy of insurance by a company or association must provide that the Commission may enforce it, that notice to employer shall be deemed notice to insurer, etc., and that insolvency of employer shall not discharge insurer, etc.; and must cover the liability for the payment of the compensation prescribed in the Act. Such policies may be cancelled only upon notice to Commission, etc. (Sec. 54).

Various duties and penalties are imposed upon employers generally (Secs. 11, 26, 52, 76 and 111-113), and upon those insuring in the State Fund in particular (Secs. 99 and 101-104).

## ASSOCIATIONS FOR ACCIDENT PREVENTION

Upon an indefinite condition, power is conferred upon the Commission, in conjunction with the Department of Labor, to prescribe rules for accident prevention (Sec. 96).

# TEXT OF THE LAW

## CHAPTER 816, LAWS OF 1913

### CHAPTER 67 OF THE CONSOLIDATED LAWS

#### AN ACT

In relation to assuring compensation for injuries or death of certain employees in the course of their employment and repealing certain sections of the labor law relating thereto, constituting chapter sixty-seven of the consolidated laws.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

#### CHAPTER 67 OF THE CONSOLIDATED LAWS

##### WORKMEN'S COMPENSATION LAW

- Article 1. Short title, application, definitions. (Secs. 1-3).
2. Compensation. (Secs. 10-34).
  3. Security for compensation. (Secs. 50-54).
  4. State workmen's compensation commission. (Secs. 60-76).
  5. State insurance fund. (Secs. 90-105).
  6. Miscellaneous provisions. (Secs. 110-119).
  7. Laws repealed; when to take effect. (Secs. 130-131).

#### ARTICLE 1

##### SHORT TITLE; APPLICATION; DEFINITIONS

- Section 1. Short title.
2. Application.
  3. Definitions.

Section 1. Short title. This chapter shall be known as the "workmen's compensation law."

Section 2. Application. Compensation provided for in this chapter shall be payable for injuries sustained or death incurred by employees engaged in the following hazardous employments:

Group 1. The operation, including construction and repair, of railways operated by steam, electric or other motive power, street railways, and incline railways, but not their construction when constructed by any person other than the company which owns or operates the railway, including work of express, sleeping, parlor and dining car employees on railway trains.