

COUNCIL OF THE DISTRICT OF COLUMBIA

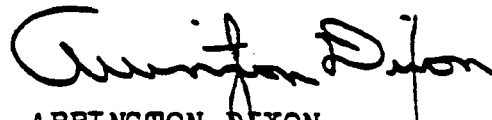
NOTICE

D.C. LAW 3-77

"District of Columbia Workers' Compensation Act  
of 1979".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia Adopted Bill No. 3-106, on first and Second readings, April 22, 1980 and May 6, 1980 respectively. Following the signature of the Mayor on May 14, 1980, this legislation was assigned Act No. 3-188, published in the June 13, 1980, edition of the D.C. Register, (Vol. 27 page 2503) and transmitted to Congress on May 15, 1980 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and, therefore, cites this enactment as D.C. LAW 3-77, effective July 1, 1980.



ARRINGTON DIXON  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

May	15,16,19,20,21,22,28,29,30
June	2,3,4,5,6,9,10,11,12,13,16,17,18,19,20,23, 24,25,26,27,30

D.C. LAW 3-77

EFFECTIVE DATE JUL 01 1980

AN ACT

D.C. ACT 3-188

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 14 1980

To provide compensation for disability or death resulting from injury to employees in certain employments in the District of Columbia, and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA.

That this act may be cited as the "District of Columbia workers' Compensation Act of 1979".

DEFINITIONS

Sec. 2. When used in this act the term:

D.C. Code,  
sec. 36-501

(a) "Adoption" or "adopted" means legal adoption prior to the time of the injury.

(b) "Brother" or "sister" includes stepbrothers and stepsisters, half-brothers and half-sisters, and brothers and sisters by adoption, but does not include married brothers nor married sisters unless wholly dependent on the employee.

-2-

(c) "Carrier" means any person or fund authorized under section 35 to insure under this act and includes self-insurers.

(d) "Child" includes a posthumous child, a child legally adopted prior to the injury of the employee, a child in relation to whom the deceased employee stood in loco parentis for at least one (1) year prior to the time of injury, and a stepchild or acknowledged child born out of wedlock dependant upon the deceased, but does not include married children unless wholly dependent on the employee.

(e) "Child", "grandchild", "brother", or "sister" includes only persons who are (1) under eighteen (18) years of age, and also persons who, though eighteen (18) years of age or over, are substantially dependent upon the deceased employee and incapable of self-support by reason of mental or physical disability; or (2) are students as defined herein.

(f) "Compensation" means the money allowance payable to an employee or to his dependents as provided for in this act, and includes funeral benefits provided herein.

(g) "Death" as a basis for a right to compensation means only death resulting from an injury.

(h) "Disability" means physical or mental incapacity because of injury which results in the loss of wages.

(i) "Employee" includes every person, including a minor, in the service of another under any contract of hire or apprenticeship, written or implied, in the District of Columbia, except:

(1) an employee subject to the provisions of section 7902 and subchapter I of chapter 91 of title 5, United States Code;

(2) an employee subject to the provisions of title 23 of The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective May 3, 1979 (D.C. Law 2-139);

(3) any secretary, stenographer, or other person performing any services in the office of any member of Congress, or under the direction, employment, or at the request of any member of Congress;

(4) an employee of a common carrier by railroad when engaged in interstate or foreign

commerce or commerce solely within the District of Columbia; or

(5) an employee engaged in employment that is casual and not in the usual course of trade, business, occupation, or profession of the employer unless the employee is employed in domestic service in and around a private home by any employer who, during any calendar quarter in the same or the previous year, employed one (1) or more household domestic workers for two hundred forty (240) hours or more.

(j) "Employer" includes any individual, firm, association, or corporation, or receiver, or trustee of the same, or the legal representative of a deceased employer, using the service of another for pay within the District of Columbia.

(k) "Grandchild" means a child as above defined of a child as above defined.

(l) "Injury" means accidental injury or death arising out of and in the course of employment, and such occupational disease or infection as arises naturally out of such employment or as naturally or unavoidably results from such accidental injury, and includes an injury caused

by the willful act of third persons directed against an employee because of his employment.

(m) "Insurance consultation services" means any survey, consultation, inspection, advisory or related services performed by a carrier, its agents, employees or service contractors incident to an applicable policy of insurance for the purpose of reducing the likelihood of injury, death or loss, or to collect or verify information for purpose of underwriting.

(n) "Mayor" means the Mayor of the District of Columbia, or his designated agent.

(o) "Parent" includes step-parents and parents by adoption, parents-in-law, and any person who for more than three (3) years prior to the death of the deceased employee stood in the place of a parent to him, if dependent on the injured employee.

(p) "Person" means an individual, partnership, corporation, association, firm, trust, or legal representative thereof.

(q) "Physical impairment" means any physical or mental condition which is or is likely to be a hindrance or obstacle to obtaining employment.

(r) "Student" means a person regularly pursuing a full-time course of study or training at an institution which is:

(1) a school or college or university operated or directly supported by the United States, or by any state or local government or political subdivision thereof;

(2) a school or college or university which has been accredited by a state or the District of Columbia, or a state or District of Columbia recognized, or nationally recognized accrediting agency or body;

(3) a school or college or university not so accredited but whose credits are accepted, on transfer, by not less than three (3) institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; or

(4) an additional type of educational or training institution as defined by the Mayor, but not after he reaches the age of twenty-three (23) or has completed four (4) years of education beyond the high school level, except that, where his twenty-third birthday occurs during a semester

or other enrollment period, he shall continue to be considered a student until the end of such semester or other enrollment period. A child shall not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed five (5) months and if he shows to the satisfaction of the Mayor that he has a bona fide intention of continuing to pursue a full-time course of education or training during the semester or other enrollment period immediately following the interim or during a period of reasonable duration during which, in the judgment of the Mayor, he is prevented by factors beyond his control from pursuing his education. A child shall not be deemed a student under this act during a period of service in the Armed Forces of the United States.

(s) "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury, including the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer, and gratuities received in the



course of employment from others than the employer.

(t) "Widow" or "widower" includes the decedent's wife or husband living with or dependent for support upon the decedent at the time of his death; or living apart for justifiable cause or by reason of his or her desertion at such time.

(u) when used in this act, the singular includes the plural.

#### ADMINISTRATION

Sec. 3. (a) The Mayor shall administer the provisions of this act, and shall make such rules and regulations, appoint and fix the compensation of such personnel, and make such expenditures as may be necessary. All expenditures of the Mayor in the administration of this act shall be allowed and paid as provided in section 42 upon the presentation of itemized vouchers therefor approved by the Mayor.

D.C. Code,  
sec. 36-502

(b) The Mayor shall report annually to the Council of the District of Columbia on the status of the workers' Compensation program. The report

shall include, but is not limited to, the following information: total number of cases, total number of lost time cases, number of medical only cases, number of cases where no compensation was paid, number of permanent partial disability scheduled awards, number of permanent partial disability non-scheduled awards, number of permanent total disability cases, number of cases in which claimant was represented by an attorney, cumulative total of attorney fees paid, number of cases controverted, number of controverted cases decided in favor of employer/employee, the growth in the assigned risk plan, and the number of cases in and the future liability of the special fund.

#### COVERAGE AND LIABILITY

Sec. 4. (a) This act shall apply in respect to the injury or death of an employee of an employer, as defined in sections 2(i) and 2(j), irrespective of the place where the injury or death occurs provided that at the time of such injury or death this employment is principally localized in the District of Columbia, with the following exceptions:

D.C. Code,  
sec. 36-503

-10-

(1) No employee shall receive compensation under this act and at the same time receive compensation under the workers' compensation law of any other state for the same injury or death;

(2) Casual employees or any employees who are employed wholly without the District of Columbia, except that for all purposes of this act, casual, occasional or incidental employments outside of the District by the District employer of an employee or employees regularly employed by the employer within the District of Columbia shall be construed to be employment within the District of Columbia; and

(3) An employee and his employer who are not residents of the District of Columbia and whose contract of hire is entered into in another state shall be exempted from the provisions of this act while such employee is temporarily or intermittently within the District of Columbia doing work for such non-resident employer, if such employer has furnished workers' compensation insurance coverage under the workers' compensation or similar laws of such other state, so as to cover such employee's employment while in the

District of Columbia. The benefits under the workers' compensation act or similar laws of such other state shall be the exclusive remedy against such employer for any injury, whether resulting in death or not, received by such employee while working for such employer in the District of Columbia.

(b) Every employer subject to this act shall be liable for compensation for injury or death without regard to locality of injury or to fault as a cause of the injury or death.

(c) In the case of an employer who is a subcontractor, the contractor shall be liable for and shall secure the payment of such compensation to employees of the subcontractor unless the subcontractor has secured such payment.

(d) Liability for compensation shall not apply where injury to the employee was occasioned solely by his intoxication or by his willful intention to injure or kill himself or another.

EXCLUSIVENESS OF LIABILITY AND OF REMEDY

Sec. 5. (a) The liability of an employer prescribed in section 4 shall be exclusive and in

D.C. Code,  
sec. 36-504

-12-

place of all liability of such employer, to the employee, his legal representative, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from such employer at law on account of such injury or death.

(b) The compensation to which an employee is entitled under this act shall constitute the employee's exclusive remedy against the employer, or any collective-bargaining agent of the employer's employees and any employee, officer, director, or agent of such employer, insurer, or collective-bargaining agent (while acting within the scope of his employment) for any illness, injury, or death arising out of and in the course of his employment: Provided, That if an employer fails to secure payment of compensation as required by this act, an injured employee, or his legal representative in case death results from the injury, may elect to claim compensation under this act, or to maintain an action at law for damages on account of such injury or death. In such action the defendant may not plead as a defense that injury was caused by the negligence

-13-

of a fellow servant, nor that the employee assumed the risk of his employment, nor that the injury was due to the contributory negligence of the employee.

(c) The furnishing of, or failure to furnish, insurance consultation services related to, in connection with or incidental to an applicable policy of insurance shall not subject the insurer, its agent or employees undertaking to perform such services to liability for damages from injury, death or loss occurring as a result of any act or omission in the course of such services.

(d) This section shall not apply:

(1) If the injury, loss or death occurred during the actual performance of consultation services and was caused by the active negligence of the carrier, its agent or employees which was the proximate cause of the injury, death or loss;

(2) To any consultation services required to be performed under the provisions of a written service contract not incidental to an applicable policy of insurance.

TIME FOR COMMENCEMENT OF COMPENSATION AND

-14-

MAXIMUM COMPENSATION FOR DISABILITY

D.C. Code,  
sec. 36-505

Sec. 6. (a) No compensation shall be allowed for the first three (3) days of the disability, except the benefits provided for in section 3: PROVIDED. That in case the injury results in disability of more than fourteen (14) days the compensation shall be allowed from the date of the disability.

(b) Compensation for disability or death shall not exceed the average weekly wages of insured employees in the District of Columbia or three hundred ninety-six dollars seventy-eight cents (\$396.78), whichever is greater.

(c) The minimum compensation for total disability or death shall be twenty-five (25) percent of the maximum compensation.

(d) For the purposes of this act, the average weekly wage of insured employees in the District of Columbia shall be determined by the Mayor as follows: On or before November 1 of each year, the total wages reported on contribution reports for employees, excluding employees of the government of the District of Columbia, and the government of the United States, to the District

Enrolled Original

Unemployment Compensation Board for the year ending on the preceding June 30 shall be divided by the average monthly number of such employees (determined by dividing the total employees reported for the preceding year, excluding employees of the government of the District of Columbia, and the government of the United States by twelve (12)). The average annual wage thus obtained shall be divided by fifty-two (52) and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage as so determined shall be applicable for the year beginning the following January 1.

(e) The average weekly wage shall not be deemed to have changed for any calendar year unless the computation in subsection (d) results in an increase or decrease of two dollars (\$2) or more, raised to the next even dollar.

BENEFIT ADJUSTMENT

D.C. Code,  
sec. 36-506

Sec. 7. (a) When the average weekly wage has changed as provided for in section 6, any person who has been totally and continuously disabled or any widow or widower who is receiving payments for



-16-

income benefits under this act in amounts per week less than the new maximum for total disability or death shall receive weekly from the carrier, without application, an additional supplemental allowance calculated by the Mayor in accordance with the provisions of subsection (b) and (c): PROVIDED, That such allowance shall not commence to accrue and be payable until the average weekly wage exceeds three hundred ninety six dollars seventy-eight cents (\$396.78). The Mayor shall notify the carrier of the amount of such additional supplemental allowance.

(b) In any case where a totally disabled person, or widow or widower is receiving the maximum weekly income benefit applicable at the time such award was made under this act, the supplemental allowance shall be an amount which, when added to such award, will equal the new maximum weekly benefit.

(c) In any case where a totally disabled person, or a widow or widower is receiving less than the maximum weekly income benefit rate applicable at the time such award was made under this act, the supplemental allowance shall be an

Enrolled Origin

amount equal to the difference between the amount the claimant is presently receiving and a percentage of the new maximum determined by multiplying it by a fraction, the numerator of which is his present award and the denominator of which is the maximum weekly rate applicable at the time such award was made.

(d) No supplemental allowance referred to in subsections (b) and (c) shall exceed five (5) percent of the maximum weekly benefit received the preceding benefit year.

MEDICAL SERVICES AND SUPPLIES

D.C. Code,  
sec. 36-507

Sec. 8. (a) The employer shall furnish such medical, surgical, vocational rehabilitation services, including necessary travel expenses and other attendance or treatment, nurse and hospital service, medicine, crutches, false teeth or the repair thereof, eye glasses or the repair thereof, artificial or any prosthetic appliance for such period as the nature of the injury or the process of recovery may require. The employer shall furnish such additional payment as the Mayor may determine is necessary for the maintenance of an

EMPLOYEE CLAIMS

employee undergoing vocational rehabilitation, not to exceed fifty dollars (\$50) a week.

(b)(1) The Mayor shall appoint a panel of physicians to provide medical care under this act to injured employees. The Mayor shall determine the number of physicians who shall serve on the panel, and shall approve their qualifications. In determining the size of the panel, the Mayor shall take into account the number of competent, suitable, and impartial physicians conveniently available within the Washington, D.C. Standard Metropolitan Statistical Area. In the interest of assuring impartiality in the appointment of physicians to the panel, the Mayor shall consult with representatives of interested parties, including the business community, organized labor, and the medical community, and consider their recommendations of persons suitable for appointment.

(2) At the request of the employee or the employer, or on his own initiative, the Mayor may make special appointments to the panel without regard to the limitations in paragraph (1), (A) in medical emergencies; (B) to accommodate special

medical needs; or (C) to provide follow-up care by a conveniently located physician for an employee who lives outside of the Washington, D.C. Standard Metropolitan Statistical Area.

(3) The employee shall have the right to choose an attending physician appointed by the Mayor to provide medical care under this act. If, due to the nature of the injury, the employee is unable to select a physician and the nature of the injury requires immediate treatment and care, the employer shall select a physician for him from the panel appointed by the Mayor. Where medically necessary or advisable, or at the request of the employee, the attending physician shall consult with the employee's personal physician.

(4) The Mayor shall supervise the medical care rendered to injured employees, shall require periodic reports as to the medical care being rendered to injured employees, shall have the authority to determine the necessity, character, and sufficiency of any medical aid furnished or to be furnished, and may order a change of physician or hospital when in his judgment such change is necessary or desirable.

Enrolled Original

(c) The Mayor shall monitor the provision of vocational rehabilitation of disabled employees and determine the adequacy and sufficiency of such rehabilitation. Where, in the judgment of the Mayor, the employer fails or refuses to provide adequate and sufficient rehabilitation services as required in section 8(a), the Mayor may order that the supplier of such services be changed, and may use the special fund provided in section 44 in such amounts as may be necessary to procure such services, including necessary prosthetic appliances or other apparatus. When the Mayor pays for such services out of the special fund, he shall institute proceedings against such employer to recover the amounts expended.

(d) If the employer fails to provide the medical or other treatment, services, and supplies required to be furnished by subsection (a), after request by the injured employee, such injured employee may procure such medical or other treatment, services, and supplies and select a physician from the panel appointed by the Mayor to render treatment and services at the expense of the employer. The employee shall not be entitled

Enrolled Under

to recover any amount expended for such treatment or services unless he shall have requested the employer to furnish the same and the employer shall have refused or neglected to do so, or unless the nature of the injury required such treatment and services and the employer or his superintendent or foreman having knowledge of such injury shall have neglected to provide the same; nor shall any claim for medical or surgical treatment be valid and enforceable, as against such employer, unless within twenty (20) days following the first treatment the physician giving such treatment furnish to the employer and the Mayor a report of such injury and treatment, on a form prescribed by the Mayor. The Mayor may, however, excuse the failure to furnish such report within twenty (20) days when he finds it to be in the interest of justice to do so, and he may, upon application by a party in interest, make an award for the reasonable value of such medical or surgical treatment so obtained by the employee. If at any time during such period the employee unreasonably refuses to submit to medical or surgical treatment or to an examination by a

physician selected by the employer, or to accept vocational rehabilitation the Mayor shall, by order, suspend the payment of further compensation during such period, unless the circumstances justified the refusal.

(e) Whenever in the opinion of the Mayor, the injured employee or his employer, a physician has improperly estimated the degree of permanent disability or the extent of temporary disability occasioned by the injury or where in the opinion of such parties a physician recommends a treatment for an injury not generally recognized by the medical community the Mayor shall cause such employee to be examined by another physician selected by the Mayor from the panel and to obtain from such physician a report containing his estimate of such disabilities and a recommendation for treatment. If the report of such physician shows that the estimate of the former physician is improper or that the treatment recommended is not one that is generally recognized in the medical community, the Mayor shall have the power in his discretion to charge the cost of such examination to the employer, if he is a self-insurer, or to

the insurance company which is carrying the risk, or in appropriate cases, to the special fund.

(f) All fees and other charges for such treatment or service shall be limited to such charges as prevail in the same community for similar treatment of injured persons and shall be subject to regulation by the Mayor.

(g) The liability of an employer for medical treatment as provided in this section shall not be affected by the fact that his employee was injured through the fault or negligence of a third party not in the same employ, or suit has been brought against such third party. The employer shall, however, have a cause of action against such third party to recover any amounts paid by him for such medical treatment in like manner as provided in section 36(b).

(h) When an employer and employee so agree in writing, nothing in this act shall be construed to prevent an employee whose injury or disability has been established in accordance with the provisions of this act, from relying in good faith, on treatment by prayer or spiritual means alone, in accordance with the tenets and practice of a



-24-

recognized church or religious denomination, by a duly accredited practitioner thereof, and having nursing services appropriate therewith, without suffering loss or diminution of the compensation benefits under this act; PROVIDED, the employee shall submit to all physical examinations required by this act.

(i) The employee and employer are entitled upon request to all medical reports made pursuant to claims arising under this act.

#### COMPENSATION FOR DISABILITY

D.C. Code,  
sec. 36-508

Sec. 9. Compensation for disability shall be paid to the employee as follows:

(a) PERMANENT TOTAL DISABILITY. In case of total disability adjudged to be permanent, sixty-six and two thirds (66 2/3) percent of the employee's average weekly wages shall be paid to the employee during the continuance thereof. Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two (2) thereof shall, in the absence of conclusive proof to the contrary, constitute permanent total disability. In all other cases permanent total disability

shall be determined only if, as a result of the injury, the employee is unable to earn any wages in the same or other employment.

(b) TEMPORARY TOTAL DISABILITY. In case of disability total in character but temporary in quality, sixty-six and two thirds ( $66 \frac{2}{3}$ ) percent of the employee's average weekly wages shall be paid to the employee during the continuance thereof.

(c) PERMANENT PARTIAL DISABILITY. In case of disability partial in character but permanent in quality, the compensation shall be sixty-six and two thirds ( $66 \frac{2}{3}$ ) percent of the employee's average weekly wages which shall be in addition to compensation for temporary total disability or temporary partial disability paid in accordance with subsection (b) or subsection (d) respectively, and shall be paid to the employee, as follows:

(1) Arm lost, three hundred and twelve (312) weeks' compensation.

(2) Leg lost, two hundred and eighty-eight (288) weeks' compensation.

-26-

(3) Hand lost, two hundred and forty-four (244) weeks' compensation.

(4) Foot lost, two hundred and five (205) weeks' compensation.

(5) Eye lost, one hundred and sixty (160) weeks' compensation.

(6) Thumb lost, seventy-five (75) weeks' compensation.

(7) First finger lost, forty-six (46) weeks' compensation.

(8) Great toe lost, thirty-eight (38) weeks' compensation.

(9) Second finger lost, thirty weeks' (30) compensation.

(10) Third finger lost, twenty-five (25) weeks' compensation.

(11) Toe other than great toe lost, sixteen (16) weeks' compensation.

(12) Fourth finger lost, fifteen (15) weeks' compensation.

(13) Loss of Hearing. Compensation for loss of hearing of one (1) ear, fifty-two (52) weeks. Compensation for loss of hearing of both ears, two hundred (200) weeks. PROVIDED That the Mayor may

-27-

establish a waiting period, not to exceed six (6) months, during which an employee may not file a claim for loss of hearing resulting from non-traumatic causes in his occupational environment until the employee has been away from such environment for such period, and PROVIDED further, that nothing in this paragraph shall limit an employee's right to file a claim for temporary partial disability pursuant to section 9(e).

(14) Phalanges. Compensation for loss of more than one (1) phalange of a digit shall be the same as for loss of the entire digit. Compensation for loss of the first phalange shall be one-half (1/2) of the compensation for loss of the entire digit.

(15) Amputated Arm or Leg. Compensation for an arm or a leg, if amputated at or above the elbow or the knee, shall be the same as for a loss of the arm or leg; but if amputated between the elbow and the wrist or the knee and the ankle, shall be the same as for loss of a hand or foot.

(15) Binocular Vision or Percentage of Vision. Compensation for loss of binocular vision or for eighty (80) percent or more of the vision

of an eye shall be the same as for loss of the eye.

(17) Two or More Digits. Compensation for loss of two (2) or more digits, or one (1) or more phalanges of two (2) or more digits, of a hand or foot may be proportioned to the loss of use of the hand or foot occasioned thereby, but shall not exceed the compensation for loss of a hand or foot.

(18) Total Loss of Use. Compensation for permanent total loss of use of a member shall be the same as for loss of the member.

(19) Partial Loss or Partial Loss of Use. Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member. Benefits for partial loss of vision in one (1) or both eyes, or partial loss of hearing in one (1) or both ears shall be for a period proportionate to the period benefits are payable for total bilateral loss of vision or total binaural loss of hearing as such partial loss bears to total loss.

(20) Disfigurement. The Mayor shall award proper and equitable compensation for serious

disfigurement of the face, head, neck or other normally exposed bodily areas not to exceed three thousand five hundred dollars (\$3,500).

(21) In any case in which there shall be a loss of, or loss of use of, more than one (1) member or parts of more than one (1) member set forth in paragraphs (1) to (19), not amounting to permanent total disability, the award of compensation shall be for the loss of, or loss of use of, each such member or part thereof, which awards shall run consecutively, except that where the injury affects only two (2) or more digits of the same hand or foot, paragraph (17) shall apply.

(22) Other Cases. In this class of disability the compensation shall be sixty-six and two thirds ( $66 \frac{2}{3}$ ) percent of the employee's wage loss, payable during the continuance of such disability. Wage loss shall be the difference between the employee's average weekly wage before becoming disabled and the employee's actual wages after becoming disabled. If the employee voluntarily limits his income or fails to accept employment commensurate with his abilities, then his wages after becoming disabled shall be deemed

-30-

to be the amount he would earn if he did not voluntarily limit his income or did accept employment commensurate with his abilities.

(d) Any compensation to which any claimant would be entitled under subsection (c) excepting paragraph (c)(22) shall, provided the death arises from causes other than the injury, be payable in full to and for the benefit of the persons following:

(1) If there be a surviving widow or widower and no child of the deceased to such widow or widower.

(2) If there be a surviving widow or widower and surviving child or children of the deceased, one-half (1/2) shall be payable to the widow or widower and the other one half (1/2) to the surviving child or children.

(3) The Mayor may in his discretion require the appointment of a guardian for the purpose of receiving the compensation of the minor child. In the absence of such a requirement, the appointment for such a purpose shall not be necessary.

(4) If there be a surviving child or children of the deceased but no surviving widow or widower, then to such child or children.

(5) If there be no surviving spouse and no surviving children, such unpaid amount of the award shall be paid to the survivors specified in section 10, (other than a wife, husband, or child); and the amount to be paid each such survivor shall be determined by multiplying such unpaid amount of the award by the appropriate percentage specified in section 10(d), but if the aggregate amount to which all such survivors are entitled, as so determined, is less than such unpaid amount of the award, the excess amount shall be divided among such survivors pro rata according to the amount otherwise payable to each.

(e) TEMPORARY PARTIAL DISABILITY. In case of temporary partial disability, the compensation shall be sixty-six and two thirds ( $66 \frac{2}{3}$ ) percent of the injured employee's wage loss to be paid during the continuance of such disability, but shall not be paid for a period exceeding five (5) years. Wage loss shall be the difference between the employee's average weekly wage before becoming



-32-

disabled and the employee's actual wages after becoming disabled. If the employee voluntarily limits his income or fails to accept employment commensurate with his abilities, then his wages after becoming disabled shall be deemed to be the amount he would earn if he did not voluntarily limit his income or did accept employment commensurate with his abilities.

(f) INJURY INCREASING DISABILITY. If an employee receives an injury which combined with a previous occupational or non-occupational disability or physical impairment causes substantially greater disability or death, the employer shall be liable for only that part of the disability or death, and the compensation due therefrom as caused by the subsequent injury: PROVIDED, That supplemental compensation shall be provided from the Special Fund, established in section 41 to raise the total compensation received by the employee or his surviving dependents under this act to that amount which the employee or his surviving dependents would be entitled under sections 3, 9, and 10 as if the subsequent injury alone had caused the subsequent

-33-

amount of disability or death and that the liability of the employer under this subsection shall be limited to one thousand dollars (\$1,000) medical expenses and one hundred and four (104) weeks of monetary benefits.

(q) For the purposes of this act, payment of benefits at the rate of eighty (80) percent of the spendable earnings of an employee shall be deemed to be not less than sixty-six and two thirds ( $66 \frac{2}{3}$ ) percent of such employee's average weekly wage. In all cases, payment of benefits shall be at the lesser of sixty-six and two thirds ( $66 \frac{2}{3}$ ) percent of the employee's average weekly wage or eighty (80) percent of spendable earnings. Spendable earnings shall be the employee's gross average weekly wage reduced by an amount determined to reflect amounts which would be withheld from such wage under federal and state or District of Columbia income tax laws, and under sub-chapter A of Chapter 21 of the Internal Revenue Code of 1954 (relating to Social Security taxes). In all cases, it is to be assumed that the amount withheld would be determined on the basis of anticipated liability of such employee

-34-

for tax for the taxable year in which such payments are made without regard to any itemized deductions but taking into account the maximum number of personal exemption deductions allowable.

(h) In any case where the Mayor determines that it is in the best interest of an injured employee entitled to compensation or an individual or individuals entitled to benefits pursuant to section 10, he may approve lump sum settlements agreed to in writing by the interested parties, discharging the liability for the employer for such compensation, notwithstanding section 17(b), and section 18. Such settlements are to be the complete and final dispositions of a case and once approved require no further action by the Mayor.

(i) In no event shall the total money allowance payable to an employee or his dependent survivor(s): (1) as compensation for an injury or death under this act; (2) as federal old age, and survivors insurance benefits; and (3) from employee benefit plans subject to the Employee Retirement Income Security Act of 1974, approved September 2, 1974 (88 Stat. 829; 26 U.S.C. secs. 401 et seq.) and such income maintenance

plans solely funded by the employer (computed weekly) exceed in the aggregate the higher of eighty (80) percent of the employee's average weekly wage or the total of federal payments and employee benefit plans payments. In the event the total aggregate money allowance payable to an employee or his survivor(s) exceeds this limitation, the amounts otherwise payable as compensation or death benefits under this act shall be reduced accordingly.

(j) An award for disability may be made after the death of an injured employee from causes other than work related injury. If the award made is for permanent partial disability, pursuant to subsection (c)(1) through (c)(21), the award shall be payable in full pursuant to subsection (d). If the award made is for any other category of disability, the amount of the award shall be computed from the date of the injury to the date of death, and shall be payable in full in the same manner as an award payable pursuant to subsection (d).

COMPENSATION FOR DEATH

Sec. 10. If the injury causes death, the compensation shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:

D.C. Code,  
sec. 36-509

(a) Reasonable funeral expenses not exceeding one thousand dollars (\$1,000).

(b) If there be a widow or widower and no child of the deceased, to such widow or widower fifty (50) percent of the average wages of the deceased, during widowhood, or widowerhood, with two (2) years' compensation in one (1) sum upon remarriage; and if there be a surviving child or children of the deceased, the additional amount of sixteen and two thirds ( $16 \frac{2}{3}$ ) percent of such wages for each such child; in case of the death or remarriage of such widow or widower, if there be one (1) surviving child of the deceased employee, such child shall have his compensation increased to fifty (50) percent of such wages, and if there be more than one (1) surviving child of the deceased employee to such children, in equal parts, fifty (50) percent of such wages increased by sixteen and two thirds ( $16 \frac{2}{3}$ ) percent of such wages for each child in excess of one (1):

PROVIDED, That the total amount payable shall in no case exceed sixty-six and two thirds ( $66 \frac{2}{3}$ ) percent of such wages. The Mayor may, in his discretion, require the appointment of a guardian for the purpose of receiving the compensation of a minor child. In the absence of such a requirement, the appointment of a guardian for such purposes shall not be necessary.

(c) If there be one (1) surviving child of the deceased, but no widow or widower then for the support of such child fifty (50) percent of the wages of the deceased; and if there be more than one (1) surviving child of the deceased, but no widow or widower then for the support of such children, in equal parts fifty (50) percent of such wages increased by sixteen and two thirds ( $16 \frac{2}{3}$ ) percent of such wages for each child in excess of one (1): PROVIDED, That the total amount payable shall in no case exceed sixty-six and two thirds ( $66 \frac{2}{3}$ ) percent of such wages.

(d) If there be no widow or widower or child or if the amount payable to a widow or widower and to children shall be less in the aggregate than sixty-six and two thirds ( $66 \frac{2}{3}$ ) percent of the

-38-

average wages of the deceased; then for the support of grandchildren or brothers and sisters if dependent upon the deceased at the time of the injury, twenty (20) percent of such wages for the support of each such person and for the support of each parent, or grandparent, of the deceased if dependent upon him at the time of the injury twenty-five (25) percent of such wages during such dependency. But in no case shall the aggregate amount payable under this subsection exceed the difference between sixty-six and two thirds ( $66 \frac{2}{3}$ ) percent of such wages and the amount payable as herein before provided to widow or widower and for the support of surviving child or children.

(e) Weekly death benefits paid under this section shall not exceed the average weekly wages of insured employees in the District of Columbia, or three hundred ninety-six dollars and seventy-eight cents (\$396.78), whichever is greater.

(f) All questions of dependency shall be determined as of the time of the injury or knowledge by the employee of an occupational disease.

OCCUPATIONAL DISEASE

Enrolled Original

Sec. 11. In case of pneumoconiosis, such as silicosis and asbestosis, radiation diseases, and any other generally recognized occupational disease, liability for compensation rests with the employer of the last known exposure.

D.C. Code,  
sec. 36-510

DETERMINATION OF PAY

Sec. 12. (a) Except as otherwise provided in this act, the average weekly wage of the injured employee at the time of the injury shall be taken as the basis upon which to compute compensation and shall be determined as follows:

D.C. Code,  
sec. 36-511

(1) If at the time of the injury the wages are fixed by the week, the amount so fixed shall be the average weekly wage;

(2) If at the time of the injury the wages are fixed by the month, the average weekly wage shall be the monthly wage so fixed multiplied by twelve (12) and divided by fifty-two (52);

(3) If at the time of the injury the wages are fixed by the year, the average weekly wage shall be the yearly wage so fixed divided by fifty-two (52); and



-40-

(4) If at the time of the injury the wages are fixed by the day, hour, or by the output of the employee, the average weekly wage shall be computed by dividing by thirteen (13) the total wages the employee earned in the employ of the employer in the thirteen (13) consecutive calendar weeks immediately preceding the injury. If the employee has been in the employ of the employer less than thirteen (13) weeks, then his "total wages" referred to in the preceding paragraph shall be the amount he would have earned had he been so employed by the employer the full thirteen (13) calendar weeks immediately preceding the injury and had worked, when work was available to other employees, in a similar occupation.

(5) If it be established that the employee, when injured, was a minor or a student as defined in section 2(r) and that under normal conditions his wages should be expected to increase during the period of disability, whether such disability be temporary, partial, or permanent in character, the fact shall be considered in arriving at his average weekly wage.

Enrolled U.S. Statute

(b) The terms "average weekly wage" and "total wages" as used in this section shall include reasonable value for board and lodging received from the employer plus gratuities declared for tax purposes by the employee.

GUARDIAN FOR MINOR OR INCOMPETENT

Sec. 13. The Mayor may require the appointment by a court of competent jurisdiction, for any person who is mentally incompetent or a minor, of a guardian or other representative to receive compensation payable to such person under this act and to exercise the powers granted to or to perform the duties required of such person under this act.

D.C. Code,  
sec. 36-512

NOTICE OF INJURY OR DEATH

Sec. 14. (a) Notice of any injury or death in respect of which compensation is payable under this act shall be given within thirty (30) days after the date of such injury or death, or thirty (30) days after the employee or beneficiary is aware or in the exercise of reasonable diligence should have been aware of a relationship between

D.C. Code,  
sec. 36-513

the injury or death and the employment. Such notice shall be given to the Mayor and to the employer.

(b) Such notice shall be in writing, shall contain the name and address of the employee and a statement of the time, place, nature, and cause of the injury or death, and shall be signed by the employee or by some person on his behalf, or in case of death, by any person claiming to be entitled to compensation for such death or by a person on his behalf.

(c) Notice shall be given to the Mayor by delivering it to him or sending it by mail to him, and to the employer by delivering to him or by sending it by mail addressed to him at his last known place of business. If the employer is a partnership, such notice may be given to any partner, or if a corporation, such notice may be given to any agent or officer thereof upon whom legal process may be served or who is in charge of the business in the place where the injury occurred.

(d) Failure to give such notice shall not bar any claim under this act (1) if the employer (or

Enrolled in

his agent in charge of the business in the place where the injury occurred) or the carrier had knowledge of the injury or death and its relationship to the employment and the Mayor determines that the employer or carrier has not been prejudiced by failure to give such notice; or (2) if the Mayor excuses such failure on the ground that for some satisfactory reason such notice could not be given; or unless objection to such failure is raised before the Mayor at the first hearing of a claim for compensation in respect of such injury or death.

TIME FOR FILING OF CLAIMS

D.C. Code,  
sec. 36-514

Sec. 15. (a) Except as otherwise provided in this section, the right to compensation for disability or death under this act shall be barred unless a claim therefor is filed within one (1) year after the injury or death. If payment of compensation has been made without an award on account of such injury or death, a claim may be filed within one (1) year after the date of the last payment. Such claim shall be filed with the Mayor. The time for filing a claim shall not

-44-

begin to run until the employee or beneficiary is aware, or by the exercise of reasonable diligence should have been aware, of the relationship between the injury or death and the employment. Once a claim has been filed with the Mayor, no further written claims are necessary.

(b) Notwithstanding the provisions of subsection (a), failure to file a claim within the period prescribed in such subsection shall not be a bar to such right unless objection to such failure is made at the first hearing of such claim in which all parties in interest are given reasonable notice and opportunity to be heard.

(c) If a person who is entitled to compensation under this act is mentally incompetent or a minor, the provisions of subsection (a) shall not be applicable so long as such person has no guardian or other authorized representative, but shall be applicable in the case of a person who is mentally incompetent or a minor from the date of appointment of such guardian or other representative, or in the case of a minor, if no guardian is appointed before he becomes of age, from the date he becomes of age.

-45-

where recovery is denied to any person, in a suit brought at law to recover damages in respect of injury or death, on the ground that such a person was an employee and that the defendant was an employer within the meaning of this act and that such employer had secured compensation to such employee under this act, the limitation of time prescribed in subsection (a) shall begin to run only from the date of termination of such suit.

PAYMENT OF COMPENSATION

D.C. Code,  
sec. 36-515

Sec. 15. (a) Compensation under this act shall be paid periodically, promptly, and directly to the person entitled thereto, without an award, except where liability to pay compensation is controverted by the employer.

(b) The first installment of compensation shall become due on the fourteenth day after the employer has knowledge of the job related injury or death, on which date all compensation then due shall be paid. Thereafter compensation shall be paid in installments, biweekly, except where the

-46-

Mayor determines that payment in installments should be made monthly or at some other period.

(c) Upon making the first payment and upon suspension of payment for any cause, the employer shall immediately notify the Mayor in accordance with a form prescribed by the Mayor that payment of compensation has begun or has been suspended, as the case may be.

(d) If the employer controverts the right to compensation he shall file with the Mayor on or before the fourteenth day after he has knowledge of the alleged injury or death and its relationship to the employment, a notice in accordance with a form prescribed by the Mayor stating that the right to compensation is controverted, the name of the claimant, the name of the employer, the date of the alleged injury or death and the grounds upon which the right to compensation is controverted.

(e) If any installment of compensation payable without an award is not paid within fourteen (14) days after it becomes due, as provided in subsection (c), there shall be added to such unpaid installment an amount equal to ten

(10) percent thereof, which shall be paid at the same time as, but in addition to, such installment, unless notice is filed under subsection (d), or unless such nonpayment is excused by the Mayor after a showing by the employer that owing to conditions over which he had no control such installment could not be paid within the period prescribed for the payment.

(f) If any compensation, payable under the terms of an award, is not paid within ten (10) days after it becomes due, there shall be added to such unpaid compensation an amount equal to twenty (20) percent thereof, which shall be paid at the same time as, but in addition to, such compensation, unless review of the compensation order making such award is had as provided in section 23 and an order staying payments has been issued by the Mayor or court. The Mayor may waive payment of the additional compensation after a showing by the employer that owing to conditions over which he had no control such installment could not be paid within the period prescribed for the payment.



-48-

(g) Within sixteen (16) days after final payment of compensation has been made, the employer shall send to the Mayor a notice, in accordance with a form prescribed by the Mayor, stating that such final payment has been made, the total amount of compensation paid, the name of the employee and of any other person to whom compensation has been paid, the date of the injury or death, and the date to which compensation has been paid. If the employer fails to so notify the Mayor within such time the Mayor shall assess against such employer a civil penalty in the amount of one hundred dollars (\$100).

(h) The Mayor (1) may upon his own initiative at any time in a case in which payments are being made without an award; and (2) shall in any case where right to compensation is controverted, or where payments of compensation have been stopped or suspended, upon receipt of notice from any person entitled to compensation or from the employer, that the right to compensation is controverted, or where payments of compensation have been stopped or suspended, make such investigations, cause such medical examinations to

Enrolled

be made, or hold such hearings, and take such further action as he considers will properly protect the rights of all parties.

(i) Whenever the Mayor deems it advisable he may require any employer to make a deposit with the District of Columbia Treasurer to secure the prompt and convenient payment of such compensation, and payments therefrom upon any awards shall be made upon order of the Mayor.

(j) If the employer has made advance payments of compensation, he shall be entitled to be reimbursed out of any unpaid installment or installments of compensation due. All payments prior to an award, to an employee, who is injured in the course and scope of his employment, shall be considered advance payments of compensation.

(k) An injured employee, or in case of death his dependents or personal representative, shall give receipts for payment of compensation to the employer paying the same and such employer shall produce the same for inspection by the Mayor, whenever required.

INVALID AGREEMENTS

Sec. 17. (a) No agreement by an employee to pay any portion of premium paid by his employer to a carrier or to contribute to a benefit fund or department maintained by such employer for the purpose of providing compensation or medical services and supplies as required by this act shall be valid, and any employer who makes a deduction for such purpose from the pay of any employee entitled to the benefits of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars (\$1,000).

D.C. Code,  
sec. 36-516

(b) No agreement by an employee to waive his right to compensation under this act shall be valid.

ASSIGNMENT AND EXEMPTION FROM CLAIMS OF CREDITORS

Sec. 18. No assignment, release, or commutation of compensation or benefits due or payable under this act, except as provided by this act, shall be valid, and such compensation and benefits shall be exempt from all claims of creditors and from levy, execution, and attachment

D.C. Code,  
sec. 36-517

-51-

or other remedy for recovery or collection of a debt, which exemption may not be waived.

COMPENSATION AS A LIEN AGAINST ASSETS

D.C. Code,  
sec. 36-518

Sec. 19. Any person entitled to compensation under the provisions of this act shall have a lien against the assets of the carrier or employer for such compensation without limit of amount, and shall, upon insolvency, bankruptcy, or reorganization in bankruptcy proceedings of the carrier or employer, or both, be entitled to preference and priority in the distribution of the assets of such carrier or employer, or both.

COLLECTION OF DEFAULTED PAYMENTS: SPECIAL FUND

D.C. Code,  
sec. 36-519

Sec. 20. (a) In case of default by the employer in the payment of compensation due under any award of compensation for a period of thirty (30) days after the compensation is due and payable, the person to whom such compensation is payable may, within two (2) years after such default, make application to the Mayor for a supplementary order declaring the amount of the default. After investigation, notice and hearing,

-52-

as provided in section 21, the Mayor shall make a supplementary order, declaring the amount of the default, which shall be filed in the same manner as the compensation order. In case the payment in default is an installment of the award the Mayor may, in his discretion, declare the whole of the award as the amount in default. The applicant may file a certified copy of such supplementary order with the Clerk of the Superior Court of the District of Columbia. Such supplementary order of the Mayor shall be final, and the Court shall upon the filing of the copy, enter judgment for the amount declared in default by the supplementary order. No fee shall be required for filing the supplementary order nor for entry of judgment thereon, and the applicant shall not be liable for costs in a proceeding for review of the judgment unless the court shall otherwise direct. The court shall modify such judgment to conform to any later compensation order upon presentation of a certified copy thereof to the court.

(b) In cases where judgment cannot be satisfied by reason of the employer's insolvency or other circumstances precluding payment, the

Mayor may, in his discretion, and to the extent he shall determine advisable after consideration of current commitments payable from the special fund established in section 41, make payment from such fund upon any award made under this act, and in addition, provide any necessary medical, surgical, and other treatment required by section 9 in any case of disability where there has been a default in furnishing medical treatment by reason of the insolvency of the employer. Such an employer shall be liable for payment into such fund of the amounts paid therefrom by the Mayor under this subsection; and for the purposes of enforcing this liability, the Mayor for the benefit of the fund shall be subrogated to all the rights of the person receiving such payment or benefits, including the right of lien and priority provided for by section 19 as against the employer and may by a proceeding in the name of the Mayor under section 21 or under section 23(c), or both, seek to recover the amount of the default or so much thereof as in the judgment of the Mayor is possible, or the Mayor may settle and compromise any such claim.

PROCEDURE IN RESPECT OF CLAIMS

D.C. Code,  
sec. 36-520

Sec. 21. (a) Subject to the provisions of section 15, a claim for compensation may be filed with the Mayor in accordance with regulations prescribed by the Mayor at any time after the first three (3) days of disability following any injury, or at any time after death, and the Mayor shall have full power and authority to hear and determine all questions in respect of any claim.

(b) Within ten (10) days after such claim is filed, the Mayor shall notify the employer and any other person (other than the claimant), whom the Mayor considers an interested party, that a claim has been filed. Such notice may be served personally upon the employer or other person, or sent to such employer or person by registered or certified mail.

(c) The Mayor shall make or cause to be made such investigations as he considers necessary in respect of the claim, which may include processing the claim through a central system in order to give the Mayor an advisory opinion on the fact and degree of disability. Upon application of any interested party the Mayor shall order a hearing

within a reasonable time not to exceed one hundred and twenty (120) days, unless he grants a special extension of time for the development of facts. If a hearing on such claim is ordered the Mayor shall give the claimant and other interested parties at least ten (10) days' notice of such hearing, served personally upon the claimant and other interested parties or sent to such claimant and other interested parties by registered mail or certified mail, and no additional information may be submitted by the claimant or other interested parties after the date of hearing, except under unusual circumstances as determined by the Mayor. Within twenty (20) days after such hearing is held, the Mayor shall by order reject the claim or make an award in respect of the claim based upon substantial evidence before him. If no hearing is ordered within twenty (20) days after notice is given as provided in subsection (b), the Mayor shall, by order, reject the claim or make an award in respect of the claim based upon substantial evidence before him.

(d) At such hearing the claimant and the employer may each present evidence in respect of



-56-

such claim and may be represented by any person authorized in writing for such purpose.

(e) The order rejecting the claim or making the award (referred to in this act as a compensation order) shall be filed with the Mayor, and a copy thereof shall be sent by registered or certified mail to the claimant and to the employer at the last known address of each.

(f) An injured employee claiming or entitled to compensation shall submit to such physical examination by a medical officer of the District of Columbia or by a duly qualified physician or panel of physicians designated or approved by the Mayor as the Mayor may require. The place or places shall be reasonably convenient for the employee. Proceedings shall be suspended and no compensation be payable for any period during which the employee may refuse to submit to examination.

(g) All medical reports submitted by the claimant or any other interested party shall become part of the record, except that the Mayor shall have the discretion to require the testimony at the hearing of any reporting physician. Copies

of all medical reports submitted shall be supplied to any party upon request.

PRESUMPTIONS

D.C. Code,  
sec. 36-521

Sec. 22. In any proceeding for the enforcement of a claim for compensation under this act it shall be presumed, in the absence of evidence to the contrary:

(a) That the claim comes within the provisions of this act;

(b) That sufficient notice of such claim has been given;

(c) That the injury was not occasioned solely by the intoxication of the injured employee; and

(d) That the injury was not occasioned by the willful intention of the injured employee to injure or kill himself or another.

REVIEW OF COMPENSATION ORDERS

D.C. Code,  
sec. 36-522

Sec. 23. (a) A compensation order shall become effective when filed with the Mayor as provided in section 21, and, unless proceedings for the suspension or setting aside of such order are instituted as provided in subsection (c),

-58-

shall become final at the expiration of the thirtieth day thereafter.

(b)(1) Where a compensation order is not in accordance with this act, such order may be suspended or set aside, in whole or in part, upon application of any party for review of the order by the Mayor, or, if the Mayor declines to review the order or does not provide for such review as authorized in paragraph (2) or if a final decision pursuant to such review is not rendered within the time period established in paragraph (2), then by the District of Columbia Court of Appeals in accordance with paragraph (3).

(2) The Mayor is authorized to establish an administrative procedure for review of compensation orders raising a substantial question of law or fact. Application for such review shall be made by any party within thirty (30) days from the date a compensation order is filed as provided in section 21. Final decisions issued pursuant to such review shall be rendered within forty-five (45) days from the date of the application and shall be based upon the record of the hearing. If a final decision is not rendered within such

-59-

Forty-five (45) day period the compensation order shall be considered a final decision for purposes of appeal pursuant to paragraph (3). The findings of fact in the order under review shall be conclusive if supported by substantial evidence in the record, considered as a whole. A case may be remanded for further appropriate action. If any party shall apply to the Mayor for leave to adduce additional evidence and shall show to the satisfaction of the Mayor that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the initial hearing before the Mayor, the Mayor may order such additional evidence to be taken and to be made a part of the record. The Mayor may modify his findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole. The Mayor may modify or set aside his original order by reason of such modified or new findings of fact. The application by a party for leave to adduce additional evidence shall stop the running of the forty-five (45) day period in which a decision by the Mayor must be rendered. If the

-60-

Mayor remands the case, any party may apply for review within thirty (30) days from the date a new compensation order is filed. A final decision must be rendered within forty-five (45) days from the date of the application for review of such new compensation order, and if not rendered within such period, then upon expiration of the forty-five (45) days such new compensation order shall be considered a final decision for purposes of paragraph (3). The payment of any amounts required by a compensation order shall not be stayed pending final decision on review unless so ordered on the grounds that irreparable injury would otherwise ensue to the employer.

(3) Pursuant to the District of Columbia Administrative Procedure Act, effective October 21, 1968 (32 Stat. 1204; D.C. Code, sec. 1-1501 et seq.), any party in interest who is adversely affected or aggrieved by a final decision rendered after review of a compensation order as provided in paragraph (2), or, if the Mayor has declined to review the order or does not establish a procedure for such review, any party in interest who is adversely affected or aggrieved by a compensation

order which has been filed as provided in section 21, may petition for review of such decision or order by the District of Columbia Court of Appeals. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Mayor, the court may order such additional evidence to be taken before the Mayor, and to be made part of the record. The court may remand the case for appropriate action.

(c) If any employer or his officers or agents fail to comply with a compensation order making an award that has become final, any beneficiary of such award or the Mayor, may apply for the enforcement of the order to the Superior Court of the District of Columbia for enforcement of such order and upon showing that such employer or his officers or agents have failed to comply therewith, the court shall enforce obedience to the order by writ of injunction or by other proper process, mandatory or otherwise, to enjoin upon

-52-

such person and his officers and agents compliance with the order.

(d) Proceedings for suspending, setting aside, or enforcing a compensation order, whether rejecting a claim or making an award, shall not be instituted otherwise than as provided in this section and section 21.

APPEARANCE OF CORPORATION COUNSEL FOR THE MAYOR

Sec. 24. In any court proceedings instituted under the provisions of this act, the Corporation Counsel of the District of Columbia shall appear as attorney or counsel on behalf of the Mayor whether the Mayor is a party to the case or interested, and shall represent the Mayor in any court in which such case may be carried on appeal.

D.C. Code,  
sec. 36-523

MODIFICATION OF AWARDS

Sec. 25. (a) At any time prior to one (1) year after the date of the last payment or compensation or at any time prior to one (1) year after the rejection of a claim, provided, however, that in the case of a claim filed pursuant to Sec. 9(c)(22) the time period shall be at any time

D.C. Code,  
sec. 36-524

prior to three (3) years after the date of the last payment of compensation or at any time prior to three (3) years after the rejection of a claim, the Mayor may, upon his own initiative or upon application of a party in interest, order a review of a compensation case pursuant to the procedures provided in Section 21 where there is reason to believe that a change of conditions has occurred which raises issues concerning:

1) The fact or the degree of disability or the amount of compensation payable pursuant thereto; or

2) The fact of eligibility or the amount of compensation payable pursuant to section 10.

(b) A review ordered pursuant to subsection (a) shall be limited solely to new evidence which directly addresses the alleged change of conditions.

(c) Upon the completion of a review conducted pursuant to subsection (a), the Mayor shall issue a new compensation order which may terminate, continue, reinstate, increase, or decrease such compensation previously paid, or award compensation. An award increasing or decreasing



the compensation rate may be made and shall be effective from the date of the Mayor's order for a review of the compensation case. If, since the date of the Mayor's order for a review of the compensation case, the employer has made any payments of compensation at a rate greater than the rate provided in the new compensation order, the employer shall be entitled to be reimbursed for the difference in accordance with rules promulgated by the Mayor. If, since the date of the Mayor's order for review of the compensation case, the employer has made any payments of compensation at a rate less than the rate provided in the new compensation order, the employee shall be entitled to the difference as additional compensation in accordance with rules promulgated by the Mayor.

(d) A compensation order issued pursuant to subsection (c) shall be reviewable pursuant to section 23.

PROCEDURE BEFORE THE MAYOR

Sec. 25. (a) In making an investigation or inquiry or conducting a hearing the Mayor shall

not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by this act; but may make such investigation or inquiry or conduct such hearing in such manner as to best ascertain the rights of the parties. Prior to the hearing before the Mayor the parties may conduct such discovery, including but not limited to the use of interrogatories and depositions as in the opinion of the Mayor, will be helpful in determining the rights of the parties. Declarations of a deceased employee concerning the injury in respect of which the investigation or inquiry is being made or the hearing conducted shall be received in evidence and shall, if corroborated by other evidence, be sufficient to establish the injury.

(b) Hearings before the Mayor shall be open to the public and shall be stenographically reported. The Mayor shall by regulation provide for the preparation of a record of the hearings and other proceedings before the Mayor.

WITNESSES

-66-

Sec. 27. No person shall be required to attend as a witness in any proceeding before the Mayor at more than twenty-five (25) miles of the place of the hearing, unless his lawful mileage and fee for one (1) day's attendance shall be first paid or tendered to him; but the testimony of any witness including that of an interested party may be taken by deposition or interrogatories according to the rules of practice of the Superior Court of the District of Columbia.

D.C. Code,  
sec. 36-526

WITNESS FEES

Sec. 28. Witnesses summoned in a proceeding before the Mayor or whose depositions are taken shall receive the same fees and mileage as witnesses in the Superior Court of the District of Columbia.

D.C. Code,  
sec. 36-527

COSTS IN PROCEEDINGS BROUGHT WITHOUT REASONABLE GROUNDS

Sec. 29. If the court having jurisdiction of proceedings in respect of any claim or compensation order determines that the proceedings in respect of such claim or order have been instituted or continued without reasonable ground,

D.C. Code,  
sec. 36-528

Enrolled Original

the costs of such proceedings shall be assessed against the party who has so instituted or continued such proceedings.

POWERS OF THE MAYOR

D.C. Code,  
sec. 36-529

Sec. 30. (a) The Mayor shall have the power to preserve and enforce order during any such proceedings, to issue subpoenas for, to administer oaths to, and to compel the attendance and testimony of witnesses, or the production of books, papers, documents, and other evidence, or the taking of depositions before any designated individual competent to administer oaths; to examine witnesses; and to do all things in conformity with law which may be necessary to enable him to effectively discharge the duties of his office.

(b) If any person in proceedings before the Mayor disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered to do so, any pertinent book, paper, or document, or refuses to appear after having been subpoenaed, or

-58-

upon appearing refuses to take the oath as a witness, or after having taken the oath refuses to be examined according to law, the Mayor shall certify the facts to the Superior Court of the District of Columbia which shall thereupon in a summary manner hear the evidence as to the acts complained of, and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of or in the presence of the court.

FEES FOR SERVICE

Sec. 31. (a) If the employer or carrier declines to pay any compensation on or before the thirtieth day after receiving written notice from the Mayor that a claim for compensation has been filed, on the grounds that there is no liability for compensation within the provisions of this act, and the person seeking benefits thereafter utilizes the services of an attorney at law in the successful prosecution of his claim, there shall

D.C. Code,  
sec. 36-530

-69-

be awarded, in addition to the award of compensation, in a compensation order, a reasonable attorney's fee against the employer or carrier in an amount approved by the Mayor, or court, as the case may be, which shall be paid directly by the employer or carrier to the attorney for the claimant in a lump sum after the compensation order becomes final.

(b) If the employer or carrier pays or tenders payment of compensation without an award pursuant to this act, and thereafter a controversy develops over the amount of additional compensation, if any, to which the employee may be entitled, the Mayor shall recommend in writing a disposition of the controversy. If the employer or carrier refuse to accept such written recommendation, within fourteen (14) days after its receipt by them, they shall pay or tender to the employee in writing the additional compensation, if any, to which they believe the employee is entitled. If the employee refuses to accept such payment or tender of compensation, and thereafter utilizes the services of an attorney at law, and if the compensation thereafter awarded is

-70-

greater than the amount paid or tendered by the employer or carrier, a reasonable attorney's fee based solely upon the difference between the amount awarded and the amount tendered or paid shall be awarded in addition to the amount of compensation. The foregoing sentence shall not apply if the controversy relates to degree or length of disability, and if the employer or carrier offers to submit the case for evaluation by physicians employed or selected by the Mayor, as authorized in section 8(e), and offers to tender an amount of compensation based upon the degree or length of disability found by the independent medical report at such time as an evaluation of disability can be made. If the claimant is successful in review proceedings before the Mayor or court in any such case, an award may be made in favor of the claimant and against the employer or carrier for a reasonable attorney's fee for claimant's counsel in accordance with the above provisions. In all other cases any claim for legal services shall not be assessed against the employer or carrier.

-71-

(c) In all cases, fees for attorneys representing the claimant shall be approved in the manner herein provided. If any proceedings are had before the Mayor or any court for review of any actions, award, order or decision, the Mayor or court may approve an attorney's fee for the work done before him or it, as the case may be, by the attorney for the claimant. An approved attorney's fee, in cases in which the obligation to pay the fee is upon the claimant, may be made a lien upon the compensation due under an award; and the Mayor or court shall fix in the award approving the fee such lien and manner of payment.

(d) In cases where an attorney's fee is awarded against an employer or carrier there may be further assessed against such employer or carrier as costs, fees and mileage for necessary witnesses attending the hearing at the instance of claimant. Both the necessity for the witness and the reasonableness of the fees of expert witnesses must be approved by the Mayor, or the court, as the case may be. The amounts awarded against the employer or carrier as attorney's fees, costs, fees and mileage of witnesses shall not in any



respect affect or diminish the compensation payable under this act.

(e) Any person who receives any fees, other consideration or any gratuity on account of services rendered as a representative of a claimant, unless such consideration or gratuity is approved by the Mayor, or court or who makes it a business to solicit employment for a lawyer, or for himself in respect of any claim or award for compensation, shall upon conviction thereof, for each offense be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

(f) At no time shall an attorney's fee be approved in excess of twenty (20) percent of the actual benefit secured through the efforts of the attorney. This provision applies to all benefits secured through the efforts of an attorney, including settlements provided for under this act.

RECORD OF INJURY OR DEATH

Sec. 32. Every employer shall keep a record with respect to any injury to an employee. Such

D.C. Code,  
sec. 36-531

record shall contain such information of disease, other disability, or death in respect of such injury as the Mayor may by regulation require, and shall be available for inspection by an authorized representative of the Mayor or of any agency of the Government of the District of Columbia at such times and under such conditions as the Mayor may by regulation prescribe.

REPORTS

D.C. Code,  
sec. 36-532

Sec. 33. (a) Within ten (10) days from the date of any injury or death or from the date that the employer has knowledge of a disease or infection in respect of such injury, the employer shall send to the Mayor a report setting forth (1) the name, address, and business of the employer; (2) the name, address, and occupation of the employee; (3) the cause and nature of the injury or death; (4) the year, month, day, and hour when and the particular locality where the injury or death occurred; and (5) such other information as the Mayor may require. The employer shall also send a copy of the report together with such other

-74-

information as may be required by the Mayor to the Department of Employment Services.

(b) Additional reports in respect of such injury and of the condition of such employee shall be sent by the employer to the Mayor at such times and in such manner as the Mayor may prescribe.

(c) Any report provided for in subsections (a) or (b) shall not be evidence of any fact stated in such report in any proceeding in respect of such injury or death on account of which the report is made.

(d) The mailing of any such report and copy in a stamped envelope, within the time prescribed in subsection (a) or (b) to the Mayor shall be a compliance with this section.

(e) Any employer who fails or refuses to send any report required of him by this section shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000) for each such failure or refusal.

(f) Where the employer or the carrier has been given notice, or the employer (or his agent in charge of the business in the place where the injury occurred) or the carrier has knowledge of

any injury or death of an employee and fails, neglects, or refuses to file report thereof as required by the provisions of subsection (a), the limitations in section 15(a) shall not begin to run against the claim of the injured employee or his dependents entitled to compensation, or in favor of either the employer or the carrier, until such report shall have been furnished as required by the provisions of subsection (a).

(q) On receiving the report provided by subsection (a), the Mayor shall notify the injured employee of the employee's rights and obligations under this act.

PENALTY FOR MISREPRESENTATION

Sec. 34. Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining any benefit or payment under this act shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not to exceed one thousand dollars (\$1,000) or by imprisonment of not to exceed one (1) year, or by both such fine and imprisonment.

D.C. Code,  
sec. 36-533

-76-

SECURITY FOR COMPENSATION

D.C. Code,  
sec. 36-534

Sec. 35. (a) Every employer shall secure the payment of compensation under this act:

(1) by insuring and keeping insured the payment of such compensation with any stock company or mutual company or association, or with any person or fund, while such person or fund is authorized (A) under the laws of the United States, the District of Columbia, or of any state, to insure workers' compensation; and (b) by the Mayor to insure payment of compensation under this act; or

(2) by furnishing satisfactory proof to the Mayor of his financial ability to pay such compensation and receiving an authorization from the Mayor to pay such compensation directly. The Mayor may, as a condition to such authorization, require such employer to deposit with the District of Columbia Treasurer either an indemnity bond or securities (at the option of the employer) of a kind and in an amount determined by the Mayor, and subject to such conditions as the Mayor may prescribe, which shall include authorization to the Mayor, in case of default to sell any such

-77-

securities sufficient to pay compensation awards or to bring suit upon such bonds, to procure prompt payment of compensation under this act. Any employer securing compensation in accordance with the provisions of this paragraph shall be known as a self-insurer.

(b) In granting authorization to any carrier to insure payment of compensation under this act the Mayor may take into consideration the recommendation of any District authority having supervision over carriers. Any carrier so authorized by the Mayor shall maintain a representative in the District of Columbia who can fulfill all of the obligations of the carrier under this act and who shall maintain a file of all active claims being serviced by the carrier in the District of Columbia. The Mayor may suspend or revoke the authorization of any carrier to insure payment of compensation under this act for good cause shown after a hearing at which the carrier shall be entitled to be heard in person or by counsel and to present evidence. No suspension or revocation shall affect the liability of any carrier already incurred.

COMPENSATION FOR INJURIES WHERE THIRD PERSONS ARE LIABLE

D.C. Code,  
sec. 36-535

Sec. 35. (a) If on account of a disability or death for which compensation is payable under this act the person entitled to such compensation determines that some person other than those enumerated in section 5(b) is liable for damages, he need not elect whether to receive such compensation or to recover damages against such third person.

(b) Acceptance of such compensation under an award in a compensation order filed with the Mayor shall operate as an assignment to the employer of all rights of the person entitled to compensation to recover damages against such third person unless such person shall commence an action against such third person within six (6) months after such award.

(c) A payment made pursuant to sections 10 and 41(d)(1) shall operate as an assignment to the employer of all rights of the legal representative of the deceased (hereinafter referred to as "representative") to recover damages against such third person.

Enrolled on 11-1-1971

(d) Such employer on account of such assignment may either institute proceedings for the recovery of such damages or may compromise with such third person either without or after instituting such proceeding.

(e) Any amount recovered by such employer on account of such assignment, whether or not as the result of a compromise, shall be distributed as follows:

(1) The employer shall retain an amount equal to:

(A) the expenses incurred by him in respect to such proceedings or compromise (including a reasonable attorney's fee as determined by the Mayor);

(B) the cost of all benefits actually furnished by him to the employee under section 8;

(C) all amounts paid as compensation; and

(D) the present value of all amounts thereafter payable as compensation, such present value to be computed in accordance with a schedule prepared by the Mayor, and the present value of the cost of all benefits thereafter to be furnished under section 8, to be estimated by the



Mayor, and the amounts so computed and estimated to be retained by the employer as a trust fund to pay such compensation and the cost of such benefits as they become due, and to pay any sum finally remaining in excess thereof to the person entitled to compensation or to the representative; and

(2) The employer shall pay any excess to the person entitled to compensation or to the representative, less one fifth (1/5) of such excess which shall belong to the employer.

(f) If the person entitled to compensation institutes proceedings within the period ascribed in subsection (b) the employer shall be required to pay as compensation under this act a sum equal to the excess of the amount which the Mayor determines is payable on account of such injury or death over the amount recovered against such third person.

(g) If compromise with such third person is made by the person entitled to compensation or such representative of an amount less than the compensation to which such person or representative would be entitled under this act.

Enrolled in 1921

the employer shall be liable for compensation as determined in subsection (f) only if the written approval of such compromise is obtained from the employer and his insurance carrier by the person entitled to compensation or such representative at the time of or prior to such compromise in a form and manner prescribed by the Mayor.

(n) Where the employer is insured and the insurance carrier has assumed the payment of the compensation, the insurance carrier shall be subrogated to all the rights of the employer under this section.

(i) The right to compensation or benefits under this act shall be the exclusive remedy to an employee when he is injured, or to his eligible survivors or legal representative if he is killed, by the negligence or wrong of any other person or persons in the same employ: PROVIDED, That this provision shall not affect the liability of a person other than an officer or employee of the employer.

COMPENSATION NOTICE

Sec. 37. Every employer who has secured compensation under the provisions of this act shall keep posted in a conspicuous place or places in and about his place or places of business typewritten or printed notices, in accordance with a form prescribed by the Mayor, stating that such employer has secured the payment of compensation in accordance with the provisions of this act. Such notices shall contain the name and address of the carrier, if any, with whom the employer has secured payment of compensation and the date of the expiration of the policy.

D.C.Code,  
sec. 36-536

SUBSTITUTION OF CARRIER FOR EMPLOYER

Sec. 38. In any case where the employer is not a self-insurer, in order that the liability for compensation imposed by this act may be most effectively discharged by the employer, and in order that the administration of this act in respect of such liability may be facilitated, the Mayor shall by regulation provide for the discharge, by the carrier for such employer, of such obligations and duties of the employer, in respect to such liability, imposed by this act

D.C.Code,  
sec. 36-537

upon the employer, as he considers proper in order to effectuate the provisions of this act. For such purposes:

(1) notice to or knowledge of an employer of the occurrence of the injury shall be notice to or knowledge of the carrier; and

(2) any requirement by the Mayor or any court under any compensation order, finding, or decision shall be binding upon the carrier in the same manner and to the same extent as upon the employer.

INSURANCE POLICIES

D.C. Code,  
sec. 36-538

Sec. 39. (a) Every policy or contract of insurance issued under authority of this act shall contain (1) a provision to carry out the provisions of section 38; and (2) a provision that insolvency or bankruptcy of the employer and discharge therein or both shall not relieve the carrier from payment of compensation for disability or death sustained by an employee during the life of such policy or contract.

(b) No contract or policy of insurance issued by a carrier under this act shall be cancelled

-34-

prior to the date specified in such contract or policy for its expiration until at least thirty (30) days have elapsed after a notice of cancellation has been sent to the Mayor and to the employer in accordance with the provisions of section 14(c).

PENALTY FOR FAILURE TO SECURE PAYMENT OF COMPENSATION

Sec. 40. (a) Any employer required to secure the payment of compensation under this act who fails to secure such compensation shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment; and in any case where such employer is a corporation, the president, secretary, and treasurer thereof shall be also severally liable to such fine or imprisonment as herein provided for the failure of such corporation to secure the payment of compensation; and such president, secretary, and treasurer shall be severally and personally liable, jointly with such corporation, for any compensation or other benefit which may accrue under the act in respect

D.C. Code,  
sec. 36-539

-85-

to any injury which may occur to any employee of such corporation while it shall so fail to secure the payment of compensation as required by section 35.

(b) Any employer who knowingly transfers, sells, encumbers, assigns, or in any manner disposes of, conceals, secretes, or destroys any property belonging to such employer, after one (1) of his employees has been injured within the purview of this act, and with intent to avoid the payment of compensation under this act to such employee or his dependents, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment; and in any case where such employer is a corporation, the president, secretary, and treasurer thereof shall be also severally liable to such penalty of imprisonment as well as jointly liable with such corporation for such fine.

(c) This section shall not affect any other liability of the employer under this act.

-86-

SPECIAL FUND

D.C. Code,  
sec. 36-540

Sec. 41. (a) There is established in the Treasury of the District of Columbia a Special Fund for the purpose of making payments in accordance with the provisions of sections 8(c), 9(a), 9(f) and 20(b). Such fund shall be administered by the Mayor.

(b) The Mayor shall be the custodian of the Special Fund, and all moneys and securities in such fund shall be held in trust by the Mayor and shall not be used for purposes other than those provided by this act. The Mayor may invest any portion of the fund which, in the opinion of the Mayor, is not needed for current requirements in bonds or notes of the United States or any Federal land bank: PROVIDED, That such investments are made pursuant to the District of Columbia Depository Act of 1977, effective October 26, 1977 (D.C. Law 2-32; D.C. Code, sec. 47-211 et seq.).

(c) Neither the District of Columbia nor the Mayor shall be liable in respect of payments authorized under sections 8(c), 9(a), 9(f) and 20(b) in any amount greater than the money or property deposited in or belonging to such fund.

-87-

(d) Payments into such fund shall be made as follows:

(1) Each employer shall pay five thousand dollars (\$5,000) as compensation for the death of an employee of such employer resulting from injury where the Mayor determines that there is no person entitled under this act to compensation for such death.

(2) All amounts collected as fines and penalties under the provisions of this act shall be paid into such fund.

(3) Any deficit incurred shall be met from the Administration Fund.

(e) The accounts of the Special fund shall be audited in the same manner as similar accounts of the District of Columbia.

(f) All civil penalties provided for in this act shall be collected by civil suit brought by the Mayor.

ADMINISTRATION FUND

Sec. 42. (a) There is established in the Treasury of the District of Columbia a fund for the purpose of providing for the payment of all

D.C. Code,  
sec. 36-541



expenses in respect of the administration of this act. Such fund shall be administered by the Mayor.

(b) The provisions of sections 41(b) and 41(e) shall be applicable to the fund established.

(c) At the end of each fiscal year the Mayor shall determine the cost of the administration of this act. The cost of administration shall include any expenses to be incurred or which will accrue during such fiscal year.

(d) The total cost so determined shall be pro rated among the carriers and self-insurers authorized to insure under section 35. The assessment base shall be the total amount of compensation and medical payments which such carriers and self-insurers have paid under this act during the preceding fiscal year.

(e) The Mayor shall assess each carrier and self-insurer for its pro rata share of the total amount of the administration costs of this act in the fiscal year as determined under this section, and shall give written notice by certified or registered mail to each carrier or self-insurer of the assessment against it.

-89-

(f) Each assessment shall be paid upon receipt of notice provided for in subsection (e) within such time as the Mayor shall prescribe in regulations made under this section.

(g) The Mayor shall have authority to make such regulations as he deems necessary or appropriate to carry out the purposes of this section, including, but not limited to, provisions for the making and preservation of appropriate records, the inspection of such records, and the submission by carriers and self-insurers of reports prescribed by the Mayor.

(h) In the event of failure by a carrier or self-insurer to pay the assessment referred to in subsection (f), to make and preserve records in the form and manner required by the Mayor, to file a report in the form and manner required by the Mayor, or to allow the Mayor to inspect records required by regulations issued under this section, the Mayor may suspend or revoke the authorization of a carrier to insure compensation or a self-insurer to act as a self-insurer under this act.

DISCRIMINATION AGAINST EMPLOYEES WHO BRING PROCEEDINGS

-90-

D.C. Code,  
sec. 36-542

Sec. 43. It shall be unlawful for any employer or his duly authorized agent to discharge or in any other manner discriminate against an employee as to his employment because such employee has claimed or attempted to claim compensation from such employer, or because he has testified or is about to testify in a proceeding under this act. Any employer who violates this section shall be liable to a penalty of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000), as may be determined by the Mayor. All such penalties shall be paid to the Mayor for deposit in the special fund as described in section 41, and if not paid may be recovered in a civil action brought in the Superior Court of the District of Columbia. Any employee so discriminated against shall be restored to his employment and shall be compensated by his employer for any loss of wages arising out of such discrimination: PROVIDED, That if such employee ceases to be qualified to perform the duties of his employment, he shall not be entitled to such restoration and compensation. The employer alone and not his carrier shall be

liable for such penalties and payments.. Any provision in an insurance policy undertaking to relieve the employer from liability for such penalties and payments shall be void.

AUTHORIZATION

Sec. 44. There is hereby authorized to be appropriated such sum as is necessary for the Mayor to administer the provisions of this act.

D.C. Code,  
sec. 36-543

SEVERABILITY

Sec. 45. Should a court of competent jurisdiction declare any provision of this act to be unconstitutional or beyond the authority of the Council of the District of Columbia, such declaration shall have no effect upon any other provision of this act.

REPEAL OF LAW

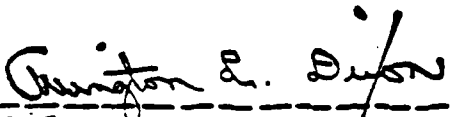
Sec. 46. An act to provide compensation for disability or death resulting from injury to employees in certain employments in the District of Columbia and for other purposes, approved May

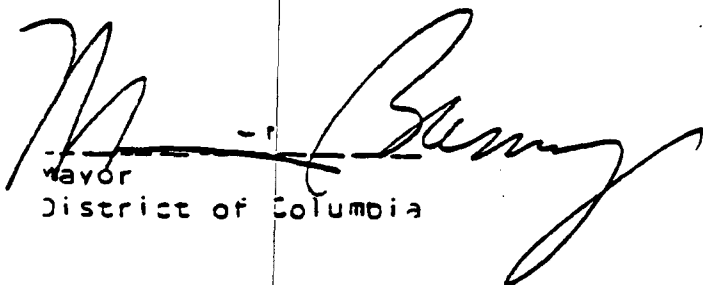
-92-

18, 1928 (45 Stat. 600; D.C. Code, sec. 36-501-503) is hereby repealed.

Sec. 47. This act shall take effect on October 1, 1981 after a thirty (30) day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 502(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (37 Stat. 813; D.C. Code, sec. 1-147(c)(1)).

D.C. Code,  
sec. 36-545

  
-----  
Chairman  
Council of the District of Columbia

  
-----  
Mayor  
District of Columbia

APPROVED: May 14, 1980

# COUNCIL OF THE DISTRICT OF COLUMBIA

## RECORD OF OFFICIAL COUNCIL ACTION

DOCKET NO: R 3-106

**ACTION:** Adopted First Reading on 4-22-80

**VOICE VOTE:** \_\_\_\_\_

**Absent:** \_\_\_\_\_

**ROLL CALL VOTE:**

COUNCIL MEMBER	AYE	NAF	NO	AB.	COUNCIL MEMBER	AYE	NAF	NO	AB.	COUNCIL MEMBER	AYE	NAF	NO	AB.
DIXON	X				KANE	X				SHACKLETON	X			
WINTER	X				MASON		X			SPaulding	X			
CLARKE	X				MOORE	X				WILSON	X			
HARDY	X				RAY			X						
TARVET	X				ROTARK			X						

CERTIFICATION OF RECORD

*John P. Brown*  
Secretary to the Council

**ACTION:** Adopted Final Reading on 5-6-80

**VOICE VOTE:** \_\_\_\_\_

**Absent:** \_\_\_\_\_

**ROLL CALL VOTE:**

COUNCIL MEMBER	AYE	NAF	NO	AB.	COUNCIL MEMBER	AYE	NAF	NO	AB.	COUNCIL MEMBER	AYE	NAF	NO	AB.
DIXON	X				KANE	X				SHACKLETON	X			
WINTER	X				MASON		X			SPaulding	X			
CLARKE	X				MOORE	X				WILSON	X			
HARDY	X				RAY	X								
TARVET	X				ROTARK			X						

CERTIFICATION OF RECORD

*John P. Brown*  
Secretary to the Council

**ACTION:** \_\_\_\_\_

**VOICE VOTE:** \_\_\_\_\_

**Absent:** \_\_\_\_\_

**ROLL CALL VOTE:**

COUNCIL MEMBER	AYE	NAF	NO	AB.	COUNCIL MEMBER	AYE	NAF	NO	AB.	COUNCIL MEMBER	AYE	NAF	NO	AB.
DIXON					KANE					SHACKLETON				
WINTER					MASON					SPaulding				
CLARKE					MOORE					WILSON				
HARDY					RAY									
TARVET					ROTARK									

CERTIFICATION OF RECORD

Secretary to the Council