

“Compensation System for Work-Related Accidents Act”

Act No. 45 of April 18, 1935, as amended

(Contains amendments incorporated by:

Act No. 39 of May 4, 1937
Act No. 137 of May 6, 1938
Act No. 74 of April 26, 1940
Act No. 43 of April 22, 1942
Act No. 52 of April 25, 1942
Act No. 160 of May 9, 1942
Act No. 160 of May 14, 1943
Act No. 284 of May 15, 1945
Act No. 298 of May 15, 1945
Act No. 401 of April 23, 1946
Act No. 384 of May 13, 1947
Act No. 16 of April 12, 1948
Act No. 134 of April 28, 1949
Act No. 48 of April 18, 1950
Act No. 74 of April 21, 1950
Act No. 100 of April 25, 1950
Act No. 124 of April 26, 1950
Act No. 155 of May 1, 1950
Act No. 163 of May 2, 1950
Act No. 405 of May 11, 1951
Act No. 21 of April 5, 1952
Act No. 160 of April 30, 1952
Act No. 182 of May 2, 1952
Act No. 115 of July 1, 1953
Act No. 57 of June 11, 1954
Act No. 60 of June 11, 1954
Act No. 88 of June 29, 1954
Act No. 70 of June 15, 1955
Act No. 36 of June 9, 1956
Act No. 52 of June 16, 1956
Act No. 68 of June 18, 1957
Act No. 89 of June 22, 1957
Act No. 94 of June 22, 1957
Act No. 136 of June 30, 1958
Act No. 72 of June 25, 1959
Act No. 79 of June 26, 1959
Act No. 88 of June 26, 1959
Act No. 96 of June 24, 1960
Act No. 101 of June 24, 1960
Act No. 53 of June 14, 1961
Act No. 7 of May 7, 1962

Act No. 92 of June 22, 1962
Act No. 29 of May 29, 1963
Act No. 74 of June 24, 1963
Act No. 50 of June 13, 1964
Act No. 13 of June 9, 1965
Act No. 69 of June 23, 1965
Act No. 47 of June 15, 1966
Act No. 63 of June 17, 1966
Act No. 111 of June 6, 1967
Act No. 22 of June 19, 1968
Act No. 48 of May 22, 1968
Act No. 103 of June 21, 1968
Act No. 103 of June 28, 1969
Act No. 13 of April 20, 1970
Act No. 68 of May 30, 1970
Act No. 53 of May 31, 1972
Act No. 101 of June 5, 1973
Act No. 49 of May 30, 1974
Act No. 52 of June 4, 1974
Act No. 63 of June 10, 1974
Act No. 15 of August 9, 1974
Act No. 57 of June 22, 1975
Act No. 116 of June 30, 1975
Act No. 117 of June 30, 1975
Act No. 17 of October 30, 1975
Act No. 67 of June 22, 1978
Act No. 41 of May 30, 1984
Act No. 53 of July 1, 1986
Act No. 57 of July 1, 1986
Act No. 98 of July 10, 1986
Act No. 99 of July 10, 1986
Act No. 114 of July 10, 1986
Act No. 19 of May 18, 1987
Act No. 20 of May 18, 1987
Act No. 41 of June 19, 1987
Act No. 50 of June 27, 1987
Act No. 90 of July 2, 1987
Act No. 22 of April 22, 1988
Act No. 40 of June 3, 1988
Act No. 41 of June 7, 1988
Act No. 61 of July 5, 1988
Act No. 16 of June 30, 1989
Act No. 31 of July 20, 1989
Act No. 83 of October 29, 1992
Act No. 6 of February 15, 1996

Act No. 63 of July 1, 1996
Act No. 200 of September 6, 1996
Act No. 219 of September 12, 1996
Act No. 236 of September 18, 1996
Act No. 209 of December 30, 1997
Act No. 299 of December 23, 1998
Act No. 312 of August 14, 1999
Act No. 312 of October 14, 1999
Act No. 314 of October 16, 1999
Act No. 62 of May 11, 2002
Act No. 94 of May 25, 2003
Act No. 224 of August 28, 2003
Act No. 162 of June 24, 2004
Act No. 198 of August 5, 2004
Act No. 257 of September 7, 2004
Act No. 263 of September 8, 2004
Act No. 343 of September 16, 2004
Act No. 284 of December 22, 2006
Act No. 147 of August 1, 2008
Act No. 98 of September 18, 2009
Act No. 141 of November 16, 2009)

(Amendments non-incorporated:
Act No. 206 of December 29, 2009
Act No. 212 of December 29, 2009
Act No. 77 of April 27, 2012)

An act to promote the welfare of the inhabitants of the People of Puerto Rico in or regarding accidents causing death or injuries, or diseases or death caused by the occupation of the workmen in the course of their employment; to establish the duty of employers to compensate their workmen or the beneficiaries of the latter as defined in this Act, for sickness or death caused by the occupation, or for injuries or death independent of negligence, and to provide the means and methods for making this duty effective; to establish the form of insurance and to regulate the same; to continue State insurance as an exclusive form; to create an Industrial Commission; to determine its powers and duties; to create the office of Manager of the State Insurance Fund, and to define the powers and duties of said Manager; to empower the manager to extend the medical and hospital benefits of the workmen's accident insurance to employers working regularly at the manual labor on their farms, shops or small businesses; to establish the liability of the Commonwealth of Puerto Rico and its municipalities in regard to their employees and workmen, for disease or death caused by their occupation or for their injury or death in all public services and in works done by force account; to authorize the Industrial Commission to liquidate all such claims as may be pending in accordance with Act No. 85 of May 1928, as amended by subsequent laws, until the date on which this act takes

effect; to appropriate the sum of one hundred thousand (100,000) dollars for the purpose of beginning the operation of this new act; to determine the liquidation of the claims and obligations of the Workmen's Compensation Fund prior to Act No. 85 of 1928; to provide for the appointment of Advisory Boards; to repeal all laws or parts of laws in conflict herewith; expressly to repeal Act No. 85 of May 14, 1928, as subsequently amended, with the exception of the provisions of sections 40 to 47, both inclusive, of this act, in regard to the decision and liquidation of the cases pending under said act, and for other purposes.

Be it enacted by the Legislature of Puerto Rico:

Section 1. — Short title. (11 L.P.R.A. § 1)

This Act shall be known as "Compensation System for Work-Related Accidents Act".

Section 1-A. — Public Policy. (11 L.P.R.A. § 1a)

The Constitution of the Commonwealth of Puerto Rico in Article II, Section 16 of its Bill of Rights, acknowledges the right of every employee to protection against risks to his/her health in his/her work or employment. It may be construed that this right provides the inclusion of a social security system for the employee for injuries sustained at the workplace. For that reason, the Legislature acknowledges the principle that the risk of sustaining work-related accidents is a fundamental risk which necessarily requires government action. As it has been to the present, this government action must be based on the theory of the social contract, which consists of a fair and equal adjustment of the interests of both the employers and employees, by which both receive important benefits in exchange for the free exercise of their traditional rights or prerogatives. Workers, to a certain extent, waive their right to sue their employer in exchange for a benefit which could eventually be smaller, but which is reliable, immediate and certain. In order for the social contract to be favorable to the best interests of the worker, it is the intent and policy of the Legislature to offer all employees within the system the best and most comprehensive protection against work-related risks. To obtain the resolute collaboration of the employers regarding such maximum protection within the system, it is necessary to reduce to a minimum any costly litigations outside the system, thus acknowledging the principle upon which the contract is based by which the benefits provided internally by the system make up the financial substitute of the legal remedy.

The public policy of the Commonwealth of Puerto Rico continues to favor a compensation system based on the principle of absolute legal responsibility. However, the same should be redirected in order to face the new social and economic realities of our modern society, considering the new challenges and problems under different perspectives with more effective remedies, so as to be able to update and improve the protection that should be offered to the Puerto Rican worker. As part of such a commitment, the following principles constitute part of the public policy of this Act:

(a) Aware of the fact that no system is able to mitigate the suffering nor totally compensate for the financial and social loss caused by work-related injuries, it is of vital importance to develop vigorous and efficient programs within the system for the prevention of work-related accidents

and occupational illness. The adoption of such preventive measures, through the establishment of specialized structures leading to the attainment of said purposes, constitutes an essential part of the public policy of the Commonwealth of Puerto Rico.

(b) The injured worker should be guaranteed the best and fastest treatment that medical science is capable of providing, so that he/she may be able to return to his/her regular employment, totally recovered from the injury, within the shortest period of time possible. If it is not possible to achieve this primary objective because of permanent physical or mental impairment, it is indispensable to establish individual vocational rehabilitation programs, provided with the best and most advanced techniques developed in this field and with the proper financial incentives so that the worker may successfully take the maximum advantage of the rehabilitation program and thus return to the employment market without any loss of income; or, if this should be inevitable, that such a loss of income be the least amount possible. The vocational rehabilitation of the worker should start as soon as the injury occurs and should comprise not only the vocational rehabilitation and retraining plans, but also re-employment and occupational placement programs.

(c) The financial protection or compensation that may be provided by the system should offer workers the best benefits. This includes, in the first place, providing financial aid to the worker during the total transitory disability period, so that he/she may be able to support himself/herself and comply with his/her basic obligations until he/she is ready to resume his/her previous job or a similar one and until his/her regular income from his/her employment is re-established.

The permanent financial compensation provided by the system should first cover the worker's loss of income, reserving the compensation for the resulting physical disability only for the most critical cases.

Finally, the Commonwealth of Puerto Rico recognizes that implementing and developing the above stated public policy requires fundamental changes in the bodies that will be most affected by the updating of our system in order to insure its proper functioning. To such effect, the creation of the State Insurance Fund Corporation and an Industrial-Medical Board is hereby provided, with the responsibility of establishing quality and excellence criteria with regard to the service to be rendered by said corporation to the insured persons. Likewise, it restructures the Industrial Commission to harmonize its functioning with that of the aforementioned bodies. It is also essential that the results obtained with these changes be subject to an ongoing evaluation process by the Legislature in order to effect all those amendments and adjustments that may be construed as necessary to correct adverse or unsatisfactory results in the Act. Upon the culmination of the reform process of the system through this joint effort, the objectives which constitute the public policy of the Commonwealth in the area of protection of our working class in those cases of work-related injuries should be fully attained.

Section 1-B. — The State Insurance Fund Corporation. (11 L.P.R.A. § 1b)

A corporation, as an instrumentality of the Government of the Commonwealth of Puerto Rico, is hereby created in order to carry out the purposes of this Act, to act, by authority of the same, under the name of "State Insurance Fund Corporation."

(1) **Authority and general powers.** — (11 L.P.R.A. § 1b-1)

The corporate powers shall be exercised by a Board of Directors hereby created that shall be responsible for insuring that the provisions of this Act are enforced.

The Corporation shall have all the necessary or convenient powers to carry out and accomplish the purposes and provisions of this Act, including, without it being a limitation to the aforementioned, the power to:

- (a) Exist in perpetuity as a corporation.
- (b) Adopt an official seal and alter same as required by circumstances.
- (c) Keep offices in the place or places thereby determined.
- (d) Sue and be sued in its name; to file accusations and be accused.
- (e) Receive, administer and comply with the conditions and requirements regarding any gift, grant or donation of any property or money.
- (f) Prepare, formalize and award agreements, leases, contracts and other instruments that may be necessary or pertinent in order to exercise the duties and powers of the Corporation with any person, firm, corporation, federal agency and with the Commonwealth of Puerto Rico and any of its political subdivisions, agencies or political instrumentalities.
- (g) Contract with any person, firm or corporation for the administration of facilities and programs or for consultant or advisory services.
- (h) Acquire, for corporate purposes, any property, personal or real or the interest on same, including, but not limited to, its acquisition by purchase, whether through an agreement or by means of eminent domain, lease, offer to exchange or donation, and to own, preserve, use and exploit such property or the interest on same.
- (i) Sell, lease or otherwise dispose of any property which the Corporation deems no longer necessary to carry out the purposes of this Act.
- (j) Use the reinsurance technique, as deemed necessary or convenient, in order to stabilize the losses, increase the risk subscription capability of the Corporation or to safeguard its financial solvency.

When using said technique, the Corporation shall be obliged to establish the maximum risk retention limits, commensurable with its financial capability.

(k) Establish an adequate and vigorous coordinated program, on its own facilities or through contracts with public or private agencies or entities, to achieve the physical as well as vocational rehabilitation of employees disabled as a result of injuries caused by accident or illness in the course of employment.

(l) Take any action as may be necessary or convenient to discharge the powers conferred by this or any other Act; Provided, however, That the Corporation shall not have the faculty to pledge the credit of the Commonwealth of Puerto Rico or of any of its political subdivisions.

(m) Develop and execute programs oriented towards the prevention and reduction of occupational accidents and/or illnesses.

(n) Enter into contracts or agreements with other public agencies and organizations in charge of protecting occupational health and safety.

(o) By virtue of the powers hereby conferred upon the State Insurance Fund Corporation, it shall be understood that this is a corporate instrumentality within the definition in subsection 11 of Section 2 of Act No. 130 of May 8, 1945, as amended [29 L.P.R.A. § 63].

(2) **Board of Directors.** — (11 L.P.R.A. § 1b-2)

The Board of Directors shall be composed of seven (7) members appointed by the Governor with the advice and consent of the Senate, all of whom shall represent the public interest and who, through their education and experience, possess the necessary qualifications to protect the financial solvency of the Corporation and the strict compliance of its objectives and social

purposes. One of the seven (7) members shall be the Insurance Commissioner, who is a person of great technical competence in the insurance area; one shall be identified with the employers, another one, who on account of his vocation, employment or union affiliation, shall be identified with the employees and shall be considered as such; and two (2) members shall be officials of the Departments of Labor and Human Resources, and Health, recommended to the Governor by the Secretaries of said Departments. The two (2) remaining members, unrelated to the above-mentioned sector, shall be freely selected.

The Governor shall designate one of the seven (7) members as Chairperson for a term of six (6) years. The initial appointment of the three (3) government officials shall be for five (5) years and the remaining four (4) members shall be for four (4), three (3), two (2) and one year, respectively. Every subsequent appointment shall be made for a single additional term of six (6) years.

Upon the expiration of the appointment of any member, his/her successor shall be appointed within a term of sixty (60) days. The incumbent shall continue performing his/her duties until his/her successor has taken to office.

Board vacancies due to resignation, dismissal, physical or mental disability or death, shall be filled within a period of sixty (60) days from the date of occurrence, and shall be effective for the remainder of the term until the expiration of the original appointment.

All members of the Board shall be legal residents of the Commonwealth of Puerto Rico and shall be subject to the provisions of Act No. 12 of July 24, 1985, as amended, known as the "Ethics in Government Act of the Commonwealth of Puerto Rico".

Four (4) members of the Board shall constitute a quorum.

The members of the Board shall discharge their functions without compensation, but they shall be reimbursed for every special expense incurred in the fulfillment of their duties, in addition to the regular per diems determined by the Board through regulations.

The Board of Directors shall appoint a Secretary from among its members.

The Governor, on his own initiative or by recommendation of the Board, may remove any of its members for just cause, upon the filing of charges and the opportunity to be heard. The Board shall establish the mechanisms to evaluate the performance of its members through regulations.

(3) *Authority and obligations of the Board.* — (11 L.P.R.A. § 1b-3)

The Board shall have the authority and the obligation to do the following:

- (a) Appoint an Executive Secretary.
- (b) Appoint an Administrator who shall be the Chief Executive Officer of the Corporation, who shall have those duties and functions assigned to him/her by the Board of Directors, according to the powers conferred upon the aforesaid.
- (c) The Administrator shall be appointed for a term of six (6) years, taking into consideration his/her technical educational background, experience and other qualities which enable him/her to achieve the goals of the Corporation. Said Administrator shall not engage in any private business or exercise any profession whatsoever during the term of his/her appointment.
- (d) Said Administrator shall direct and administer programs covering occupational accident and illness prevention, work injury and illness insurance and all services rendered to employees covered by the present Act.
- (e) Set the salary of the Administrator.

- (f) Remove the Administrator from office for any justified cause, upon prior notice and the opportunity of being heard.
 - (g) Establish the coverage and amount of and the requirements for the bond of the Administrator and any other official or employee that should be covered by a bond, as determined by the Board.
 - (h) Consider, reach agreements and issue resolutions on issues submitted by the Administrator.
 - (i) Approve the necessary regulations to put into effect the provisions of this Act, subject to Act No. 170 of August 12, 1988, as amended, known as the "Uniform Administrative Procedures Act." Furthermore, it shall approve rules for its organization and internal operation.
 - (j) Establish the administrative structure of the State Insurance Fund Corporation, including the systems, controls and standards for personnel remuneration, the budget, finances, purchasing, accounting, and any other administrative systems that may be necessary for a cost-effective and efficient service operation.
 - (k) Hold regular meetings at least once a month, and special meetings as deemed necessary, and draw complete minutes of all procedures.
 - (l) Contract, if deemed necessary, any advisors that may help the Board discharge the obligations and duties conferred hereby.
 - (m) It shall have power to contract external auditors, who shall advise the Board of Directors as to the faithful compliance with the applicable laws, regulations and fiscal procedures, and who shall submit a full audit report on the fiscal activities of the System.
 - (n) Approve the budget for those expenses that are necessary to perform the duties assigned hereby to the Corporation; Provided, That:
 - (1) The administrative expenses, including expenses for medical services and hospitalization, shall not exceed twenty-two percent (22%) of the total income accrued on account of premiums during the previous fiscal year, and
 - (2) the budget shall include an item set aside to cover the expenses apportioned in the budget of the Commonwealth of Puerto Rico for the operations and functions of the Industrial Commission, which item shall not exceed four percent (4%) of the total income accrued on account of the premiums during the previous fiscal year.
- The resulting differences between the amounts spent annually by the Industrial Commission and the Office of the Administrator of the State Insurance Fund, and the total amount available to said entities for their budgets as provided by virtue of this section, with the exception of medical expense remainders, shall be deposited annually in the Catastrophe Reserve Fund of the State Insurance Fund.
- (o) Establish procedures for the determination and revision of fees, collection of premiums and payment of claims.
 - (p) Revise, approve and submit at the end of each financial year, but no later than the first of November of each year, an annual report to the Governor and the Legislature, containing, among other matters; a financial statement including an income and expense statement for the corresponding year, a balance sheet, and detailed reports of the claims filed at the Corporation during the year; a loss reserve certification prepared by a professional actuary in compliance with the standards of the National Association of Insurance Commissioners to certify the reserves of commercial insurers; a report on the investment and property titles of

the Corporation; and any other statistical and financial data which the Board may deem necessary for an adequate interpretation of the Financial Statement of the Corporation.

(q) Approve investments of the resources of the Corporation, subject to the provisions of Section 27 [11 L.P.R.A. § 30] on the public policy on investments.

(r) Make the corresponding recommendations to the Governor regarding the candidates to be appointed to the Medical-Industrial Council, as provided in Section 1-C of this Act and, once said Council is appointed, it shall aid and collaborate with the duties assigned to the aforesaid as provided thereby.

(s) Keep up with the development of the system, so that it may be a dynamic one.

The Board of Directors of the State Insurance Fund Corporation shall use its corporate powers to promote the Work Accident Compensation System established in this Act, in accordance with the objectives and purposes of the statement of public policy stated in Section 1-A [11 L.P.R.A. § 1a]. To such effects, the Board of Directors shall submit to the Governor of the Commonwealth of Puerto Rico and to the Legislature, within one year after being constituted and from then on, on each subsequent year, a full and detailed report of the measure administratively adopted in order to comply with such a task. Said report shall contain, whenever possible, an evaluating analysis of the achievements and results attained thereof.

In its annual report to the Governor and the Legislature, the Board of Directors of the Corporation must make mention on those areas which are in the process of being studied and considered for the purpose of complying with the task of reforming the Work Accident Compensation System. The Board of Directors of the Corporation shall also recommend, as soon as possible, those legislative measures that may be necessary to continue the reform process and which may be impossible to implement by administrative action.

(4) *Duties and functions of the Administrator.* — (11 L.P.R.A. § 1b-4)

In addition to the duties assigned to the Administrator by the Board of Directors in accordance with the powers conferred by it, the Administrator shall carry out the following duties and functions:

(a) Take any administrative and managerial actions that may be necessary and convenient for the implementation of this Act and the regulations adopted by virtue thereof.

(b) Adopt, upon approval of the Board of Directors, reasonable and adequate administrative guidelines and orders to implement and put into effect the provisions of this Act.

(c) Oversee and supervise the coordination of the work accident prevention program and of the medical, hospitalization, and physical and vocational rehabilitation services, as well as the compensation payment and claims liquidation of employees.

(d) Carry out studies and submit reports to the Board of Directors on the progress of the programs established for the benefit of the employees and to make recommendations as to possible changes and modifications to such programs.

(e) Administer and operate, subject to the regulations in effect and the guidelines set by the Board of Directors, the Corporation's own health service facilities for the benefit of the employees.

(f) Insure, pursuant to this Act and to regulations, all employers that by law should be insured by the State Insurance Fund Corporation. It is also provided, that the Administrator shall ensure the timely remittance of the workers' compensation insurance premiums imposed upon employers and municipalities. In the case of the municipalities, the notice of the imposition of the workers' compensation insurance premiums shall be sent either ninety (90) days in

advance or by March 1, whichever term is the shortest, prior to the deadline for presenting the municipal budget. The Administrator shall implement the necessary mechanisms and approve the rules for compliance with the provisions set forth in this subsection.

(g) Administer the Corporation's own personnel system and appoint all its officials, agents and employees, who shall be public employees entitled to membership with the Government Employees Association of Puerto Rico and to the benefits under the Retirement System of the Government of Puerto Rico, to confer the powers and assign the duties that may be deemed appropriate, as well as to set their remuneration subject to the personnel regulations established by the Board of Directors of the Corporation. The Corporation shall be exempt from the provisions of Act No. 5 of October 14, 1975, known as "Puerto Rico Public Service Personnel Act", and from the personnel regulations adopted by virtue thereof. However, the Personnel System to be established shall be based on the merit principle and shall conform to the rules and regulations adopted to such effects by the Administrator.

(h) Impose on the officials, agents and employees of the State Insurance Fund Corporation the disciplinary measures that may correspond according to the regulations adopted to such effects by the Board of Directors.

(i) Award contracts to health professionals and institutions or organizations engaged in rendering medical-hospital and health services, chargeable to budget authorizations approved by the Board of Directors, as may be necessary or convenient for the treatment of employees entitled to receive the benefits of the law.

(j) Use actuarial services for reviewing and fixing rates, for determining reserves and for other legitimate purposes in the fulfillment of the obligations imposed by this Act or by the Board of Directors of the Corporation.

(k) Authorize, carry out and supervise all disbursements that should be drawn against the State Insurance Fund Corporation pursuant to this Act and the regulations, and to the by-laws adopted thereof.

(l) Acquire all the materials, supplies, equipment, parts or services that may be necessary or convenient for the operation of the Agency, subject to the applicable regulations and to Act No. 42 of August 5, 1989, known as "Preference Procurement Policy Act of the Government of Puerto Rico."

(m) Give prompt attention to the determinations and recommendations of the Medical-Industrial Council, created by virtue of Section 1-C of this Act, in accordance to what is thereby provided.

(n) Request, accept and use external funds, with the approval of the Board of Directors, in order to carry out programs, works or services approved in this Act.

(o) Establish friendly work relations with other government agencies, hospital boards and other organizations including those related to occupational accident and illness prevention and the physical and vocational rehabilitation of disabled persons.

(p) Make available the facilities of the Corporation, subject to cost reimbursement, for the treatment of any kind of injury or illness suffered by any member of the community, by means of contracts with the Department of Health, the Vocational Rehabilitation Office of the Department of Social Services or any other public agency or private institution that may wish to use the services provided by the Corporation. However, no contracts may be awarded if, by doing so, the services which the Corporation must render primarily to the employees under this Act are adversely affected. The Administrator shall also offer the facilities of the

Corporation in emergency situations, subject to the aforesaid conditions, in accordance with the rules adopted to such effects by the Board of Directors.

(q) Serve summons and compel the appearance of witnesses and the presentation of documents, through the officials, agents or agencies designated by him/her, and to issue certifications regarding those official acts assigned to the Corporation through this Act or delegated or entrusted by the Board of Directors.

Section 1-C. — Medical-Industrial Council. (11 L.P.R.A. § 1c)

(a) The Medical-Industrial Council is hereby created, consisting of seven (7) members, four (4) of which shall be doctors in medical sciences, of which one shall have experience in occupational medicine. These first four (4) members, whose professional training enables them to evaluate the medical services offered by the State Insurance Fund Corporation and the treatment that should be given to injured employees under the benefits of this Act, must have been admitted into the practice of medicine in the Commonwealth of Puerto Rico. The three (3) remaining members shall be a Health Services Administrator, a professional nurse, and a specialist in vocational rehabilitation or a social worker with experience in vocational rehabilitation, all of which shall be duly licensed under the laws of the Commonwealth of Puerto Rico. No member of the Medical-Industrial Council shall have any financial or professional relationship with the State Insurance Fund Corporation.

One of the members of the Board of Directors of the State Insurance Fund Corporation, the Administrator of the State Insurance Fund Corporation and the Chairperson of the Industrial Commission may participate in the meetings of this Council without the right to vote. Five (5) members of the Council shall constitute a quorum.

The seven (7) members of the Medical Council shall be appointed by the Governor, with the advice and consent of the Senate, and all of them shall represent the public interest. One of the seven members shall be designated as Chairperson by the Governor and may participate in the meetings of the Board of Directors of the Corporation without the right to vote. The term of the Chairperson shall be six (6) years. The initial appointment of the remaining six (6) members shall be for six, five, four, three, two and one year, respectively. Every subsequent appointment shall be for only one additional term of six (6) years.

The Governor shall appoint two of the four members of the Council who shall be doctors in medicine, choosing one from each of two lists of five candidates submitted by the Secretary of Health and the Dean of the School of Medical Sciences. One of the two remaining members shall be designated in consultation with representatives of the labor movement and the other in consultation with representatives of the employer's sector.

The three members that are not doctors in medicine shall be selected from an additional list of five candidates submitted to the Governor by the Secretary of Health and the Dean of the School of Medical Sciences, in consultation with the Dean of the School of Health-Related Professions, the Dean of the Graduate School of Public Health of said Medical School, and the Secretary of the Department of the Family, respectively.

The list of candidates to be appointed to the Medical Council shall be accompanied by any such information that may allow the Governor to evaluate the suitability and capability of those professionals in the field of medical sciences that are being recommended.

Upon expiration of the appointment of any member, his/her successor shall be appointed within a period of sixty (60) days. The person in office shall continue to fulfill his/her duties until the successor takes office.

Medical Council vacancies due to resignations, separations or death shall be covered within a period of sixty (60) days from the date of their occurrence and shall last for the remainder of the term of the original appointment.

All members of the Medical Council shall be legal residents of the Commonwealth of Puerto Rico and shall be subject to the provisions of Act No. 12 of July 24, 1985, as amended, known as "Ethics in Government of the Commonwealth of Puerto Rico Act."

The Medical-Industrial Council shall appoint an Executive Official whose main duty shall be to insure compliance with the decisions and recommendations of the Council in the fulfillment of the duties and responsibilities described later in subsection (b) of this section. The Administrative Official shall carry out, in addition to the above stated duties, any other that may be entrusted to him/her by the Council. The Administrator shall provide the financial resources that may be necessary for the Medical Council to adequately fulfill its duties, including the office expenses of the Executive Official of the Council. To that effect, the Medical Council shall submit to the Board of Directors a budget of the financial resources that it may consider necessary to carry out the tasks imposed hereby.

(b) The Members of the Council shall have the following powers and responsibilities:

(1) Maintain communications and coordinate efforts with professionals of the various branches of medicine in order to get to know the latest advances in science regarding the treatment of employees who enjoy the benefits of this Act.

(2) Design guidelines for the adequate treatment of the most common medical conditions presented by employees who avail themselves of the benefits of this Act. Said guidelines shall include:

(A) A general description of the treatment that should be offered for each condition.

(B) The frequency of medical appointments for each condition

(i) with the inspecting doctor,

(ii) with the specialist doctors in the appropriate cases.

(C) Maximum treatment period for each condition.

These treatment guidelines shall be submitted to the Board of Directors of the Corporation for their ratification.

(3) Establish and keep under evaluation and continuous review the criteria and indicators of quality, efficiency and control in the use of medical services rendered to injured employees under the State Insurance Fund Corporation, insuring that they are complied with and seeking their continuous improvement.

(4) Carry out on their own or take steps through the Administrator and the Board of Directors of the Corporation so that continued studies are carried out concerning the latest developments in the field of occupational medicine, including physical and vocational rehabilitation. Take the necessary measures to see that the findings obtained from these studies reach the professional personnel in charge of rendering such services to the employees who benefit under this Act and insure that these are used on their behalf.

(5) Obtain from the Administrator statistical data on the occurrence, severity and cost of the different medical services offered to the employees who benefit under this Act.

(6) Appoint, at their own discretion, advisory committees for the various medical branches or specialties in order to obtain from them recommendations as to the best methods for rendering those services provided to employees under this Act.

(7) Advise and orient the Board of Directors and the Administrator of the State Insurance Fund Corporation in the fulfillment of their responsibilities and provide the medical counseling they may request.

(8) Make recommendations to the Board of Directors of the Corporation, so that the aforesaid Board may inform the Governor and the Legislature as to possible modifications to this Act in order to improve the medical services which this Act provides.

(9) The members of the Council shall receive per diems determined by the Corporation through Resolution for their attendance to each meeting and shall be reimbursed all expenses necessary for discharging their duties.

Section 2. — Workers and Employees covered in this Act. (11 L.P.R.A. § 2)

The provisions of this Act shall apply to all workers and employees working for their employers to whom the following paragraph refers, who suffer injuries, are disabled or lose their lives by reason of accidents caused by any act or function inherent to their work or employment, when such accidents happen in the course of said work or employment and as a consequence thereof or due to diseases or death caused by their trade, as specified in the following section. The provisions of this Act shall also apply to any owner of a business or trade, or any individual employer working full-time in said business or trade whose gross income does not exceed one million dollars (\$1,000,000). Specifically excepted from this provision are those workers or employees whose labor is [one] of an accidental or casual nature and is not included in the business, trade, profession or occupation of his employer.

The premium to be imposed for the risks involved with the job performed by the owner of the business, trade or the individual employer to which the previous paragraph makes reference, shall be determined through the regulations promulgated to such effect by the Administrator of the Puerto Rico State Insurance Fund Corporation.

When the owner to which the first paragraph of this provision refers suffers any injury or disease in the workplace, he/she shall submit a claim of the case within the term provided by law, using the forms of the State Insurance Fund Corporation to such effect. Said form shall be filled out under oath and include the name and address of the claimant, the insurance policy number, the circumstances under which the alleged accident or disease occurred, the date, hour and place, as well as the name and address of the witnesses, if any, and the signature of the claimant, among other things. The submittal of said report is required to receive medical-hospital services and all other benefits granted by law, with the exception of emergency treatment.

Any owner of a business or trade that opts for the benefits of this Act when the injury or condition suffered is not related to his/her work shall be compelled to reimburse the State Insurance Fund Corporation for the expenses incurred.

This Act, being of a remedial character, shall be construed liberally, and any reasonable doubt that may arise as to its application with regard to the existence of causal relation between the work or occupation of the workman or employee and the injury, disability or death, or the occupational character of a sickness, shall be decided in favor of the workman or employee, or his beneficiaries.

This Act shall be applicable to all employers employing one or more workers or employees covered herein regardless of their wages. The Commonwealth Government and the municipal governments, boards, commissions, authorities, instrumentalities, public corporations, and agencies of the Commonwealth shall be deemed to be employers and as such shall come under the provisions of this Act with regard to workers, employees and officials used by them. Voluntary municipal firefighters shall be included in the term "municipal employees". Municipal legislators shall also be deemed to be included in the term "municipal employees" while in the discharge of their duties as such and while going to and returning from Municipal Legislature meetings and their homes. Jurors summoned to serve in the courts of justice of Puerto Rico shall be included in the term "Commonwealth officials" from the time they leave their homes until they return to them, whether they have served as jurors or not. In case of a work accident or illness and for the purpose of the payment of per diems or compensation, the weekly salary shall be estimated based on the salary earned in the regular position or employment pursuant to the provisions of Section 3. If he draws no salary, the weekly salary shall be computed based on the minimum legal wage. The Administrator shall present the invoice for reimbursement to the municipalities or the Courts Administration, including the liquidation of the expenses incurred in the handling of the claims by the municipal firefighters, municipal legislators and court jurors, who will reimburse to the Fund the total shown by the liquidation of the funds appropriated for such purposes by them, and in the event that they lack an appropriation or it is insufficient, the reimbursement to the Fund shall be paid from any funds not destined for other appropriations.

Sharecroppers and their workmen shall, for the purposes of this Act, be considered as workmen of the landlord, unless the sharecropping contract has been executed by public deed or private instrument signed before a notary, district judge, or justice of the peace, the Secretary of Labor and Human Resources or any agent thereof. For the purpose of the collection of the corresponding premium and of the payment of compensation, the wages of sharecroppers and their workmen shall be computed on the basis of the wage rate per working day fixed for other workmen in similar occupations, except when it should be verified that the participation of the sharecropper or of his workmen is equivalent to a larger sum; Provided, That workmen engaged in the growing of minor crops for their families' consumption shall not be considered sharecroppers when the employer does not derive profit therefrom in cash or in kind.

In any case where a farm, industrial, public service employer or other uses employees, middlemen, adjuster or industrial partners to operate any farm product, merchandise or passenger transportation system, said employer shall be covered by the provisions of this Act and shall insure the workers performing such transportation service, even when they are hired directly by the employees, middlemen, adjusters or industrial partners of such employer; Provided, That this paragraph shall not be applicable to the truck drivers who are concessionaires of the Public Service Commission that can obtain workers insurance under this Act.

For the purposes of this Act, industrial partners shall be considered employees unless the partnership to which they belong has been executed through public deed or instrument signed before a notary.

In every contract for an insular or municipal public works the amount of premiums on insurance of the workers to be employed on said work shall be included in the cost thereof, and the Secretary of Transportation and Public Works, the municipal treasurer or the corresponding official of the government department, board, commission, committee, authority, instrumentality, public corporation, bureau or agency, in charge of the works, shall withhold such an amount

from the contractor to be paid to the State Insurance Fund Corporation. In the case of employers who have not been insured according to the provisions of this Act, the following procedures shall be observed:

(1) In the case of contractors or owners of private works, the Regulations and Permits Administration shall not extend a permit for construction, structural alteration, enlargement, demolition, transfer or use of buildings until the employer has presented to it a certificate issued by the Manager accrediting that the work has been duly insured pursuant to law; Provided, further, That no officer or organization of the Commonwealth of Puerto Rico may supply lighting, or sewer or aqueduct services, or render any public service whatsoever, including health licenses issued by the Department of Health, for the construction, structural alteration, enlargement, demolition, transfer or use of buildings, both in the urban and rural zones, until shown authentic proof that the work has been insured according to law.

(2) When any employer is conducting his/her activities or operations, of whatever nature they may be, without the corresponding insurance, the Administrator, either personally or through his/her assistants, shall have the power to suspend the same. Every employer shall be bound to comply with the orders of the Administrator of the State Insurance Fund Corporation without any excuse whatsoever and said suspension shall continue until the employer has been insured as provided in this Act, and should the employer continue his/her activities or operations in spite of the prohibition of the Administrator of the State Insurance Fund Corporation, he/she shall be immediately brought before the court of competent jurisdiction and accused of disobedience to the order of the Administrator of the State Insurance Fund, and upon conviction he/she shall be punished with a fine not to exceed five thousand dollars (\$5,000) or a term of imprisonment not to exceed six (6) months, or with both penalties at the same time; Provided, That as soon as said complaint is filed, the court shall issue a restraining order to prevent the continuation of the activities or operations of the employer until the latter has been insured according to this Act. The court, at its discretion, may impose the penalty of community services in lieu of the penalty of imprisonment.

The several departments of the government, boards, bureaus or commissions, and the municipal governments, shall include in their annual and special budgets the total amount of premiums required by the Manager of the State Fund to insure their employees; Provided, That in the case of premiums owed by any municipal government, the Secretary of the Treasury shall, at the request of the Manager of the State Fund, withhold the amount of the premiums which must be paid to the State Fund from any remittance that is to be made to said municipality; Provided, further, That in case any municipality owes premiums corresponding to any years prior to 1941-42, the Secretary of the Treasury shall annually withhold, from any remittances to be made to said municipality, in addition to the amount of the new premiums, a sum equivalent to ten percent (10%) of the previous debt, until the said debt is fully paid.

Section 2-A. — Workers' Insurance Policy for Truckdrivers. (11 L.P.R.A. § 2-1)

The State Insurance Fund Corporation is hereby authorized to issue a worker's insurance policy in behalf of that natural person who is a truck driver authorized by the Public Service Commission to engage in offering or rendering freight transportation service to the general public or private person for pay, on the public thoroughfares of Puerto Rico. This policy shall be paid by the truck driver him/herself and extends protection as employee in every case that he/she

may suffer a work related accident or occupational disease, as established in the Worker's Accident Compensation System Act. The premium to be charged shall be calculated based on the basis of the existing rate multiplied by thirty percent (30%) of the weekly income obtained by the truck driver.

Section 2-B. — Claim for Accident or Occupational Disease by the Truck Driver. (11 L.P.R.A. § 2-2)

When any truck driver who has availed himself of the worker's insurance policy suffers an injury or work related disease, he/she shall file the claim for his case in the term provided by law, using the form provided by the State Insurance Fund Corporation. In it shall be included the detailed circumstances of how the alleged accident or occupational disease occurred, the date, time and place as well as the name and address of witnesses, if any. The presentation of said report shall be required in order to receive the medical-hospital services as well as the other benefits granted in this Act, with the exception of emergency treatment.

Section 2-C. — Administrative Penalty for Undue Filing and Claims. (11 L.P.R.A. § 2-3)

Any truck driver who avails him/herself of the benefits of this Act without having suffered an injury or condition derived from his/her work shall be bound to reimburse the expenses incurred by the State Insurance Fund Corporation.

Section 2-D. — [Benefits for Employers Performing Manual Labor] (11 L.P.R.A. § 2a)

The Manager of the State Insurance Fund shall extend, subject to such regulations as he may promulgate for such purpose, and by request of the interested party, the medical and hospital benefits provided by this Act to persons appearing as employers under the State Insurance Fund who, as owners, sharecroppers or leaseholders, supervise and personally perform manual labors on their farms, in their shops, or small businesses, or who qualify as small-scale farmers according to the definition established to such effects by the State Insurance Fund Corporation in coordination with the Department of Agriculture, through the corresponding regulations; who sustain an injury in the course and as a result of their labor or work; Provided, That the Administrator may impose on employers covered by these benefits, or those who qualify as small-scale farmers, a per capita premium computed on the basis of the cost experience of the activity in which they are engaged; Provided, further, That separate classifications shall be kept for the said activities, and the experience accumulated on account of the operation thereof shall be kept separate from all other experience, for statistical purposes and for the promulgation of premium rates. There shall be excluded from the benefits of these provisions the employers that are principally engaged in supervisory, directive or administrative work. Upon the request of the employer or any person who qualifies as a small-scale farmer, coverage may also be extended under like conditions to the employer's spouse and to the children who earn no wages, provided they are engaged in manual labor on the farm, in their shop or small insured business, and they pay the per capita premium imposed.

Section 2-E. — [Benefits for Employers Performing Manual Labor - Affidavit as to Injuries] (11 L.P.R.A. § 2b)

Whenever a person covered by the provisions of Section 2-A [Note: renumbered as Section 2-D] (11 L.P.R.A. § 2a) may sustain an injury while at work, he shall make an affidavit setting forth in detail the circumstances surrounding his alleged accident, as well as the name of the eyewitnesses thereof. If the injury is of such a nature as not to permit the employer to make the said affidavit immediately, the same shall be made by any of his workers who witnessed the accident or, in default thereof, by a near relative of the employer so injured. The making of such affidavit to the office of the State Insurance Fund shall be an indispensable requisite for receiving the medical and hospital services to which the workmen protected by the State Insurance Fund are entitled, with the exception of first-aid treatment in emergency cases. Any person availing himself of the benefits mentioned in the preceding paragraph (11 L.P.R.A. § 2a) without being entitled thereto, shall be under obligation to reimburse to the State Insurance Fund any payment for medical and hospital services the State Insurance Fund may have unduly made.

Section 3. — Workers' and Employees' Rights. (11 L.P.R.A. § 3)

Any worker or employee who is injured or suffers [an] occupational disease within the conditions of this Act as established in Section 2 thereof shall be entitled to:

MEDICAL ASSISTANCE

(a) *Medical assistance.* — To medical attendance and such medicine as may be prescribed, including hospital services when necessary; but when, in the judgment of the Manager of the State Fund, such medical or hospital services should be discontinued, the workman or employee may appeal to the Industrial Commission.

1.A. Worker claims shall be closed for all legal purpose after three (3) years as of the definitive closing date of the case, except regarding the following conditions when the ill-effects may become evident after a longer term has elapsed:

1. Cytotoxic
2. Exposure to asbestos
3. Exposure to mercury
4. Exposure to lead
5. Exposure to cadmium
6. Exposure to radium
7. AIDS
8. Hepatitis C
9. Exposure to beryllium

These conditions shall be evaluated according to established medical protocols.

1.B. Applications for reopening cases shall only be processed when filed within a term not to exceed three (3) years as of the definitive closing date of the claim, subject to the following conditions:

1. When clear and convincing medical evidence exists indicating that the condition has worsened or there has been a relapse.

2. When the injury that was originally compensated has been the sole cause of said worsening or relapse, without the intervention of any factor or cause foreign to the original accident.
3. When allegations of secondary conditions are involved, these must have been caused, hastened, worsened by the original condition, without the intervention of any agent foreign to the original accident.
4. When the injured worker or employee requests in writing that the case be reopened.

TEMPORARY DISABILITY

(b) *Temporary disability.* — If the disability is of a temporary or transitory nature, a compensation equal to sixty-six and two thirds percent (66 $\frac{2}{3}$ %) of the wages he/she was earning or would have earned on the day the accident occurred, but for such accident, during the period he/she is disabled for work and payable at the end of each week. The period for such payment shall in no case exceed three hundred and twelve (312) weeks; Provided, That in no case shall such payment exceed one hundred dollars (\$100) or be less than thirty dollars (\$30) a week. The worker or employee shall be entitled to compensation from the day he/she presents him/herself to the physician for treatment. Provided, That in such cases where an injured worker, in the judgment of the Manager, requires a referral to vocational training or retraining as part of the treatment, the injured worker shall receive the aforementioned compensation, but in no case shall be paid for more than twenty-six (26) weeks. During the period of disability for work, no public employee or officer may receive, with the exception of the period during which he/she is enjoying regular vacation leave or sick leave, any sum for weekly compensation, which added to the salary he/she may be receiving from the government agency for which he/she works, exceeds the regular salary of his/her position.

(1) *Accidents continuing under investigation.* —

(A) In those cases where the accident continues under investigation of the State Insurance Fund during a term to be fixed by regulations and which shall not exceed sixty (60) days to determine if same is one of the accidents covered by this Act and that the Manager may consider meritorious, he shall order advance payments to the injured workman chargeable to the per diems to which such workman may be entitled.

(B) The advances made in accordance with this subsection shall be paid chargeable to the Advance Payment for the Payment of Temporary Disabilities [Fund] hereunder created.

(C) The advances shall be made in accordance with the terms of clauses (1) to (3) of this subsection and of the regulations approved by the manager within his/her faculties under the law, but same shall not exceed the total of the maximum per diems to which the workman would be entitled in accordance with the law in force at the time of the occurrence of the accident and the manager shall ascertain in every case that the economic solvency of the State Insurance Fund is protected.

(D) If as a result of said investigation the manager should determine that the accident is one covered by this Act, he shall continue paying to the injured workman the per diems for temporary disability to which he is entitled in accordance with the law.

(2) *Result of investigation and final findings.* —

(A) If the result of the Manager's investigation and final findings was that the injury of the workman or employee who received the advance payments was not caused by a work

accident, the State Insurance Fund shall have a claim and a preferential lien on the insurance or any other plan, both public and private, that the injured person may have.

(B) For the purposes of obtaining said reimbursement with the urgency required by the public policy and for the purposes of clauses (1) to (3) of this subsection, the Manager of the State Insurance Fund shall certify to the Director of the Office or to the corresponding government bureau or the private entity or person involved, for purposes of reimbursement, an invoice containing the liquidation of the payments made chargeable to the Advance Payment Fund for the Payment of Temporary Disability, and such payments shall be reimbursed immediately in accordance to those submitted. Said payments by reason of reimbursement shall be covered into the Advance Payment Fund hereunder created.

(C) The Manager of the State Insurance Fund may obtain the reimbursement provided for in this clause, through a judicial claim if necessary, which shall be transacted summarily and following the same procedure as an injunction, or if in any case the Manager of the State Insurance Fund so determines through the regular procedure.

(D) The right of subrogation of the Manager of the State Insurance Fund recognized in this Act applies in the same measure and scope to all cases that may arise under clauses (1) to (3) of this subsection.

(3) *Special Fund.* —

(A) There is hereby created a Special Fund in the State Insurance Fund which shall constitute and shall be known as the "Advance Payment Fund for the Payment of Temporary Disabilities."

(B) The Manager is hereby authorized to make periodical transfers from the General Fund of the State Insurance Fund to the Advance Payment Fund for the purposes that at all times same [the Advance Payment Fund] be sufficiently solvent to comply with the provisions of clauses (1)--(3) of this subsection.

(C) The Manager of the State Insurance Fund shall establish the standards and the necessary procedure to the effect of determining the form and amounts which the agency shall periodically transfer from its unencumbered funds to the Advance Payment Fund for the Payment of Temporary Disabilities to keep it solvent and to transact and reimburse to this Fund the payments made to injured workmen chargeable to same in conformity with clause (1) of this subsection.

(D) The Advance Payment Fund for the Payment of Temporary Disabilities shall be administered by the Manager of the State Insurance Fund, exclusively to be used as advance payment for temporary disabilities to workmen who suffer accidents while such accident is under investigation to determine whether same is or not a work accident protected under this Act.

(E) The money corresponding to said Fund shall not be consolidated with other funds and shall be kept in a separate account in the books of the State Insurance Fund.

PERMANENT PARTIAL DISABILITY

(c) *Permanent Partial Disability.* — Permanent partial disability shall be deemed to be the loss of one foot or leg, one hand, one arm, one eye, one or more fingers or toes, and any ankylosis or dislocation, when ligaments have been torn and where restoration is not complete. For the

permanent partial disabilities specified below, the injured worker or employee shall receive additional compensation consisting of sixty-six and two thirds percent (662/3%) of the wages which were received, or would have been received by him but for such accident, on the day of the accident, for the number of weeks specified in the following table; Provided, That in no case shall there be paid to the worker or employee more than sixty-five dollars (\$65), or less than twenty dollars (\$20) a week; and Provided, further, That in no case shall a sum greater than twelve thousand dollars (\$12,000) be paid.

TABLE OF COMPENSATIONS

Arms:

- For the loss of an arm at or above the elbow.....for 300 weeks
- For the loss of the right forearm at either the
upper or lower third.....for 225 weeks
- For the loss of the left forearm at either the
upper or lower third.....for 200 weeks

In cases of loss of the left forearm at either the upper or lower third, the compensation corresponding to the loss of the right forearm at the upper or lower third shall be granted when the said left forearm is the able limb.

Legs:

- For loss of one leg by amputation, including
pelvi-section (pelvotomy).....for 300 weeks
- For loss of one leg by disarticulation at the
level of the coxofemoral.....for 275 weeks
- For loss of one leg by amputation at the upper
third of thigh.....for 250 weeks
- For loss of one leg by amputation at the lower
third of thigh.....for 225 weeks
- For loss of one leg by amputation at or below
the knee with unsatisfactory stump.....for 200 weeks
- For loss of one leg by amputation at or below
the knee with a satisfactory stump as to
length, configuration and general condition.....for 175 weeks
- For loss of one foot by disarticulation at the
level of tibiotarsal articulation
(disarticulation).....for 175 weeks
- For loss of one foot by amputation at or below
the ankle.....for 160 weeks
- For an ankylosed knee in a defective position.....for 150 weeks
- For an ankylosed knee in a good position.....for 120 weeks
- For an ankylosed ankle in a defective position.....for 125 weeks
- For an ankylosed ankle in a good position.....for 100 weeks

For the loss of the big toe at the joint of
metatarsus and phalanx.....for 30 weeks
For the loss of the big toe at the second joint.....for 10 weeks
For the total loss of any toe.....for 15 weeks

Hands:

For the loss of the right hand at the wrist.....for 200 weeks
For the loss of the left hand at the wrist.....for 180 weeks

In cases of loss of the left hand at the wrist, the compensation corresponding to the right hand shall be granted when said left hand is the able hand.

For the loss of the thumb with the metacarpal
bone.....for 75 weeks
For the loss of the second phalanx of a thumb.....for 30 weeks
For the loss of the first and second phalanges
of a thumb.....for 35 weeks
For total loss of the index finger.....for 40 weeks
For the loss of the index finger at the second
phalanx.....for 30 weeks
For the loss of the index finger at the third
phalanx.....for 20 weeks
For the total loss of middle finger.....for 30 weeks
For the loss of the middle finger at the third
phalanx.....for 10 weeks
For the loss of the middle finger at the second
phalanx.....for 20 weeks
For the loss of the ring finger.....for 25 weeks
For the loss of the ring finger at the second
phalanx.....for 20 weeks.
For the loss of the ring finger at the third
phalanx.....for 10 weeks
For the loss of the little finger.....for 15 weeks
For the loss of the little finger at the second
phalanx.....for 10 weeks
For the loss of the little finger at the third
phalanx.....for 5 weeks

Hearing and

Voice:

For the total loss of hearing.....for 200 weeks
For the total loss of hearing in one ear only.....for 50 weeks
For the total loss of voice.....for 200 weeks

Permanent visual disabilities shall be determined and evaluated by the manager of the State Insurance Fund on the expert report of an oculist; Provided, That partial disabilities shall be determined according to the percentage of the total disability that they represent, taking into

consideration the industrial vision efficiency of both eyes and applying therefor the factors one (1) and three (3) for the worse and the better eye, respectively; and/or any other guideline more liberally established hereafter and Provided, further, That ten percent (10%) total permanent disability shall be compensated for the loss of the eyeball by enucleation, evisceration, or extreme atrophy, in addition to the visual disability resulting therefrom.

The complete and permanent functional loss of any member, which affects the industrial capacity of the workman or his earning capacity, shall be considered as a total loss of said member as if it had been amputated.

Compensation for any other unspecified permanent partial disability shall be graded in accordance with the disability that most resembles the corresponding disability specified in the foregoing table, and compensation shall be given for such number of weeks that most resembles the disability taken as a basis for grading the disability not specified in the table; Provided, That the disabilities resulting from the loss of function of three (3) or more digits, and disabilities resulting from the loss of function of the thumb and/or index fingers (pincer functions) shall be graded as said disability affects the hand; Provided, further, That the disabilities that result from the loss of teeth shall be graded as they affect the physiological functions of the worker; Provided, also, That the compensation for any partial disability accepted by this Act, except as hereinafter provided, shall never exceed twelve thousand dollars (\$12,000), regardless of the number of accidents suffered by the worker; and Provided, further, That in case a scar, burn or any change in physiognomy disfigures the face or head or neck or one or both hands or arms of the injured person, the Industrial Commission, at the request of the manager of the State Insurance Fund or of the injured worker or employee, shall decide, in accordance with the seriousness of the injury, how much compensation should be allowed on this account. In no case shall a sum greater than three thousand dollars (\$3,000) be paid for disfiguration of the face, head or neck of the injured worker and, in the case of disfiguration of the hands or arms it shall not be greater than one thousand six hundred dollars (\$1,600). In cases where the hands or arms are disfigured, no compensation shall be paid on this account if the disfiguration was taken into consideration when fixing any compensation for disability of said hand or arm.

The Industrial Commission shall grade this compensation while taking into consideration the seriousness of the disfiguration and the profession, trade and sex of the injured person; and Provided, also, That in cases of hernia and as the result of an accident suffered in the course of work and as a consequence thereof, it shall be proven to the satisfaction of the Manager of the State Insurance Fund on the basis of a statement made by a physician:

- (1) That an accident, other than mere strain, causing or aggravating the hernia, occurred.
- (2) That the hernia appeared in either of these two (2) forms immediately after an accident and as a result thereof.
- (3) A pre-existent hernia shall be considered as being aggravated when the aggravation is produced by a direct trauma on the hernia or by an extraordinary strain or in case of acute strangulation or incarceration when they occur immediately after an accident or as a result thereof, and when a pre-existent hernia becomes symptomatic after a work accident.

In any case entitled to compensation, in which a surgical operation is necessary, the Manager of the State Insurance Fund shall have the right to order a medical examination, and if it is shown by said examination that the workman or employee has any chronic disease or is otherwise in a physical condition that ordinarily determines that such operation would be unsafe, the workman or employee shall receive his compensation for disability under the general provisions of this

Act, even when he does not submit to such operation. If the examination does not show the existence of any disease or physical condition showing any danger in this operation, and the workman or employee, knowing the result of said examination, still persists in refusing to submit to such operation, he shall be entitled to only one half (1/2) of the compensation ordinarily belonging to him under this Act.

PERMANENT TOTAL DISABILITY

(d) *Permanent Total Disability*. — If, as a result of the injury or disease, the case of the worker or employee is resolved as a case of permanent total disability, the worker or employee shall continue to receive a sum equal to sixty-six and two thirds (662/3%) of the wages received on the day of the accident for such time as said total disability may last, but in no case shall there be paid more than four hundred and thirty dollars (\$430) a month nor less than one hundred and thirty dollars (\$130) a month; Provided, That the payment of this pension shall be retroactive to the date of the accident, but the retroactive payment shall never exceed twelve (12) months; and, Provided, That at the request of the beneficiary, and in lieu of a life pension, the Manager may pay the compensation to the beneficiary, in part or in whole, and in one single payment, provided the latter justifies a profitable investment in the judgment of the Manager, and to which effects the compensation shall be computed on the basis of five hundred forty (540) weeks for a term that, added to the term during which the injured person had already received the monthly compensation payments shall not exceed five hundred forty (540) weeks, in which cases, the weeks shall be computed at a rate of sixty-six and two thirds percent (662/3%) of the weekly wage which the beneficiary was receiving on the day of the accident, or would have received had it not been for the accident, but in no case shall weeks of more than one hundred dollars (\$100), nor less than thirty dollars (\$30) be computed. Provided, further, That the total compensation to be paid shall in no case exceed thirty-two thousand four hundred dollars (\$32,400). If after the investment is made there is a balance left, it shall be paid at a rate of three hundred dollars (\$300) a month, unless the beneficiary should opt for a subsequent investment.

When in the judgment of the Administrator the physical or mental condition of the disabled person requires the continuous assistance of another person, he/she may authorize an additional payment of not more than eighty dollars (\$80) a month [on] behalf of the relative or the person who will care for the disabled person as long as the need exists.

The total and permanent loss of industrial vision in both eyes; the loss of both feet at or above the ankle; the loss of both hands at or above the wrist; the loss of one hand and one foot; total mental disturbances which are incurable, and such injuries that bring about the total and permanent disability of the worker or employee to engage in any kind of remunerative work or occupation shall be deemed a total disability.

In those cases of permanent total disability in which, as a result of a compensable accident or occupational disease, the worker or employee has the need to use a special device prescribed by a physician of the State Insurance Fund Corporation, upon final discharge, the Administrator shall provide said special device; Provided, That said special device shall not be replaceable for any reason whatsoever. In the event the injured person intends to build a specially-designed dwelling for his/her use to facilitate his/her mobility or to adapt the one he/she owns, or to remodel its accesses to the above purposes, the Manager shall grant as an additional benefit, a sum not greater than one thousand three hundred dollars (\$1,300) to be invested in the

achievement of such purposes. The investment of said sum shall be supervised by the Manager so as to make sure that it will be used to the best advantage of the injured worker or employee. Provided, That if a worker or employee is totally and permanently disabled due to the total and permanent loss of industrial vision in both eyes; the loss of both feet at or above the ankle; the loss of both hands at or above the wrist; the loss of one hand and one foot, or for becoming paraplegic or quadriplegic or for having permanently lost the function of both legs in such a way that he[/she] is bound to move about in a wheelchair, even though said condition can be rehabilitated in any other area of industry, neither the benefits nor the compensation they are entitled to for their permanent and total disability shall be suspended, even though the Industrial Commission determines that said disability has ceased.

(d-1) *Disabilities not comprised in compensation table.* — In those cases where the permanent partial disability cannot be properly fixed in accordance with the Compensation Table inserted above, the same shall be graded according to the general physiological functions of the worker or employee and the compensation shall be computed on the basis of four hundred and fifty (450) weeks as a maximum and shall not exceed twelve thousand dollars (\$12,000).

(d-2) *Definition of week and day.* — For the purpose of computing the compensations provided in this Act, it shall be understood that the week consists of five (5) working days, and the working day of eight (8) hours, except where from the facts investigated it arises that the workman or employee worked regularly more than forty (40) hours a week.

(d-3) *Pre-existing disabilities.* — In all cases where a workman, by reason of a labor accident, suffers the aggravation or augmentation of a former disability not resulting from a labor accident, the disability resulting from the accident shall be compensated, including the former disability; but in those cases where the workman suffers the aggravation or augmentation of a pre-existing disability caused by a former accident and for which he received the corresponding compensation there shall be deducted from the compensation to which he may be entitled for the total disability resulting therefrom, the amount of the compensation he received for his pre-existent disability; Provided, That in all cases where a workman suffers the aggravation or augmentation of a pre-existent disability and said aggravation or augmentation results in the total and permanent loss of the member or organ affected, or results in the total and permanent loss of the general physiological functions, the workman shall be compensated for the total disability without taking into consideration the pre-existent disability even if he received compensation therefor; and, Provided further, That the additional cost resulting from the application of this provision shall be paid chargeable to the Reserve Fund for Disasters and shall not be taken into consideration for the purposes of the Merit Rating System which is hereinafter provided.

In all cases in which the death of a worker or employee occurs for any cause not related to the injury received in the accident for which injury any compensation was given, or a total or permanent disability is recognized or is pending adjudication, the following procedure shall apply:

- (1) If the injured person has chosen an investment, the remainder of his compensation shall be paid to the beneficiaries in monthly payments of four hundred thirty dollars (\$430) subject to the limitations imposed by the first paragraph of subsection (e)(3)(C) of this section; should there be beneficiaries other than the widow, children or concubine, the distribution shall be made subject to the provisions of subsection (e)(3) of this section.
- (2) If the injured person has not chosen an investment, the total compensation shall be computed by multiplying five hundred forty (540) weeks by his weekly compensation

equivalent to sixty-six and two thirds percent ($66\frac{2}{3}\%$) of the weekly wage which the injured worker was receiving on the date of the accident, or would have received had it not been for the accident, but in no case shall weeks be computed of more than one hundred dollars (\$100), nor less than thirty dollars (\$30). Total compensation shall, in no case, exceed thirty-two thousand four hundred dollars (\$32,400). From the total compensation thus computed, there shall be deducted the amount paid to the injured worker prior to his death, and the remainder shall be paid to his beneficiaries in the manner and with the limitations provided in clause (1) of this subsection.

(3) Subject to the limitations provided in clauses (1) and (2) of this subsection, for the purposes of making an investment which, in the Manager's judgment would be beneficial, he may advance up to fifty percent (50%) of the total worth of the future monthly payments at the time of the investment to the surviving spouse or concubine. Once the investment has been made, the monthly payments made to the spouse or concubine, chargeable to the remainder, shall be reduced proportionally in such a way that the term of payment of the remaining sum at the time the investment is made shall remain unaltered, without taking into account the minimum monthly payments provided in this Act. The Manager of the State Insurance Fund may authorize more than one investment to the same spouse or concubine, but never more than one in a period of three (3) consecutive years. The monthly payments to be charged to the remainder shall cease if the spouse or concubine should remarry, live in concubinage, or die. If one of the situations indicated above should occur, and there are dependent minors entitled to benefits, their monthly payments shall be increased, preferably by distributing the monthly payment received by the spouse or concubine chargeable to the remainder, to the dependent minors. In the absence of dependent minors, the Manager of the State Insurance Fund shall be obliged to redistribute the compensation among the other beneficiaries. The Manager of the State Insurance Fund shall investigate everything connected with the investment to be made and to determine that it is safe before authorizing the investment, shall be bound to see to it that the investment is profitable for the spouse or concubine as well as for the minor beneficiaries, if any.

In all cases where death occurs to a workman or employee for any reason independent of the injury received in an accident, for which there has been accepted or is pending acceptance a partial permanent disability, the Manager of the State Insurance Fund shall, upon previous justifying evidence [having] been presented for the purpose, grant and cause payment of the unpaid balance of any compensation corresponding to said partial permanent disability belonging or due to the injured workman or employee up to the time of his death, to be made to those who depended for their support on the deceased workman or employee, in whose rights they are expressly subrogated. The total compensation to be granted shall include any payment by reason of transitory disability to which the workman is entitled and which has not been paid before his death. Provided, That the payments to the persons who depended on the workman shall be made within a term not to exceed twelve (12) months, as determined by the Manager.

COMPENSATION IN CASE OF DEATH

(e) *Compensation in case of death.* —

(1) If, as a result of the accident suffered under the conditions specified in Section 2 of this Act, the death of the worker or employee occurs within three (3) years from the time of the

accident and as a consequence thereof, the Manager shall pay funeral expenses up to a maximum of one thousand five hundred dollars (\$1,500) in addition to such other expenses for medical attendance, hospitalization and medicines as may have been incurred by order of the Manager of the State Insurance Fund Corporation. In like manner these expenses shall be payable when the death of the workman or employee occurs by reason of a compensable occupational disease, provided it occurs within the term of three (3) years from the date on which the disability was manifested, as it may be determined by the claim of the interested party; Provided, That nothing which is provided above shall be construed in the sense of denying authority to the Manager of the State Insurance Fund to pay funeral expenses in cases of the death of a workman or employee hospitalized by the State Insurance Fund, or in those cases where the autopsy of a deceased workman or employee is performed after the said Manager of the State Insurance Fund has taken jurisdiction in the case to investigate the cause of the accident or death, regardless of any final determination with regard to causal relation.

(2) Should the deceased worker or employee leave a widow; parents; children, including posthumous, adoptive and foster children; grandparents; foster father or foster mother; grandchildren; brothers or sisters, including foster brothers or sisters; concubine; and relatives within the fourth degree of consanguinity or second degree of affinity, [they] shall receive, upon qualifying under the regulations established herein, a compensation equal to sixty-six and two thirds percent (66 $\frac{2}{3}$ %) of the wages the worker or employee received or, but for the accident, would have received on the day of the accident, payable at the end of each month, with a minimum monthly payment of one hundred thirty dollars (\$130) and a maximum of four hundred thirty dollars (\$430), for a maximum period of five hundred forty (540) weeks, except as hereinafter provided for cases in which the beneficiaries are the widow, parents or children of the deceased worker.

(3) The Manager of the State Insurance Fund shall distribute the compensation among the abovementioned relatives who depended totally or partially for their subsistence on the earnings of the deceased worker or employee at the time of his death; Provided, That the Manager shall observe the following rules to determine the beneficiaries of the deceased worker or employee:

(A) The compensation shall be distributed among the aforesaid dependents according to the condition, needs, and degree of relationship and dependence of each, as determined by the Manager of the State Insurance Fund in accordance with the facts.

(B) For the purposes of the compensation, that woman who at the time of the death of the workman or employee and during the last three (3) years prior thereto has lived with the workman or employee honorably as husband and wife, in a status of public concubinage, shall be considered entitled to the corresponding share of the compensation.

(C) The right to compensation of the surviving spouse, concubine or male concubine as a dependent of the deceased worker or employee shall cease if she/he marries or lives in concubinage. In such case, or in case of the death of the surviving spouse, concubine or male concubine, monthly payments to the dependent minors shall be increased by distributing the monthly payment which the surviving spouse, concubine or male concubine received among the dependent minors. In the absence of minor dependents the Manager shall have the obligation of redistributing the compensation among the other beneficiaries. When there are dependent minors, payments in their favor shall be

suspended upon their attaining eighteen (18) years of age, unless they are permanently handicapped for work due to their mental condition or physical handicaps, or shall continue up to the age of twenty-five (25) if they are pursuing studies.

Provided, further, That in order to make an investment which in the judgment of the Manager would be profitable, he may advance to the surviving spouse, concubine or male concubine up to fifty percent (50%) of the commuted value of future monthly payments at the moment of the investment. The commuted value of the future monthly payments shall be computed actuarially based on the interest rate and actuarial tables determined by the Manager of the State Insurance Fund in regulations to that effect. Once the investment is made, the monthly payments to the surviving spouse, concubine or male concubine charged to the remainder shall be proportionally reduced in accordance with the actuarial determination based on the interest rate and actuarial tables used to compute the commuted value of future monthly payments, without taking into consideration the minimum monthly installments provided in this Act.

Provided, That the Manager of the State Insurance Fund may authorize more than one investment by the same surviving spouse, concubine or male concubine but never more than one during a period of three (3) consecutive years. Monthly payments charged to the remainder shall cease if the spouse, concubine or male concubine marries, lives in concubinage or dies. If there are dependent minors entitled to benefits, their monthly payments shall be increased by distributing among those dependent minors the monthly payment[s] received by the spouse, concubine or male concubine chargeable to the remainder at the moment it ceased. In the absence of dependent minors, the Manager shall have the obligation of redistributing the compensation among the other beneficiaries.

Before authorizing the investment, the Manager of the State Insurance Fund shall investigate everything related to the intended investment and if he determines that there is no risk whatsoever, he shall have the obligation of ensuring that the investment is beneficial to the surviving spouse, concubine or male concubine, as well as to the minor beneficiaries if they exist.

(D) In cases where brothers or foster brothers over eighteen (18) years of age appear as possible beneficiaries, they shall be considered as such only if the Manager of the State Insurance Fund shall determine that they are permanently disabled for work by reason of their mental condition or physical handicaps and were mainly dependent on the earnings of the deceased workman or employee.

(E) In cases where relatives of the workman or employee of the third or fourth degree of consanguinity or first or second degree of affinity appear as possible beneficiaries, they shall be considered as such only if the Manager of the State Insurance Fund shall determine that they are permanently disabled for work by reason of their mental condition or physical handicaps or advanced old age and were mainly dependent on the earnings of the deceased workman or employee.

(F) If the beneficiaries of the deceased worker or employee were the widow, father, mother, child, including posthumous and adoptive children, or concubines, the compensation shall be paid indefinitely, except as provided in paragraph (C) of this clause.

If the beneficiaries of the deceased worker were the widow or the concubine, they shall only be entitled to receive a total compensation amounting to fifty percent (50%) of the wages the worker or employee was receiving on the day of the accident, payable at the end of

each month, which shall not be less than one hundred thirty dollars (\$130) nor exceed the sum of four hundred thirty dollars (\$430).

When the widow or concubine concurs with only one child, the total compensation to be distributed among the beneficiaries shall be increased by ten percent (10%) of the wages the worker was receiving on the day of the accident. If several children or other beneficiaries concur with them, the total compensation shall be increased by five percent (5%) for each additional beneficiary, but in no case shall the total payment exceed eighty-five percent (85%) of the wages of the worker or employee on the day of the accident, nor shall it be greater than five hundred thirty dollars (\$530) a month. When the sole beneficiaries are the children of the worker, including posthumous or adoptive children, the total compensation payable shall not exceed sixty percent (60%) of the wages of the worker or employee, and shall be through monthly payments fluctuating between one hundred thirty (\$130) and four hundred thirty dollars (\$430) a month. If there were no widow, concubine or children, including posthumous or adoptive children, and the beneficiaries were only the father or mother alone or concurrent with other beneficiaries of a lower category, the total compensation to be paid shall not exceed eighteen thousand five hundred dollars (\$18,500); Provided, That for the purposes of an investment which, in the judgment of the Manager, would be profitable, the latter may advance to the father or mother of the deceased worker or to both, up to fifty percent (50%) of their share in the compensation. The monthly payments chargeable to the remainder of the compensation shall be reduced proportionally in accordance with the actuarial determination.

(G) If at the time of the death of the worker or employee there are no beneficiaries of those designated in paragraph (F) of this clause, it shall suffice that one of the beneficiaries of the deceased worker or employee be a grandparent, the foster father or mother, a foster child, a grandchild, or a brother or sister for the total compensation payable not to exceed nine thousand five hundred dollars (\$9,500).

(H) If at the time of the death of the worker or employee none of the beneficiaries designated under paragraphs (F) and (G) of this clause exist, it shall suffice that one of the beneficiaries of the deceased worker or employee is a foster brother, or a relative of the deceased worker or employee of the third or fourth degree of consanguinity, or first or second degree of affinity, for the total compensation to be paid shall not exceed six thousand dollars (\$6,000).

(I) By request of an interested party and for the purpose of meeting peremptory needs arising from the death of the worker or employee, or related to the payment of debts previously contracted by the worker or employee or for the repair and maintenance of the widow's home, or to school, medical, medicines or special feeding expenses for the widow or other beneficiaries, the Manager may make, as an advance, an initial payment of seven hundred sixty dollars (\$760) to the widow, two hundred thirty dollars (\$230) to each parent, and seventy-five dollars (\$75) to each of the remaining beneficiaries up to a total maximum of one thousand five hundred dollars (\$1,500). When the widow is not present among the beneficiaries, the Manager may double the above amounts, but the total payment of the advances shall not exceed a total maximum of one thousand five hundred dollars (\$1,500). The Manager of the State Insurance Fund Corporation shall settle the form of the liquidation of the compensation and the payment thereof.

FORM OF PAYMENT

(f) *Form of payment.* — The compensation that corresponds to the partially disabled worker or employee shall be paid in the following manner:

(1) When the compensation is not greater than one thousand five hundred dollars (\$1,500), the same shall be paid in one lump sum. If it exceeds it, an initial payment of up to one thousand five hundred dollars (\$1,500) shall be made to the worker or employee, and the balance shall be paid at the rate of one hundred and fifty dollars (\$150) a month, starting on the date of the decision of the case.

(2) When the compensation is greater than one thousand five hundred dollars (\$1,500), it shall be the duty of the Manager of the State Insurance Fund to require the worker or employee to devote the amount of the compensation, in whole or in part, to the purchase of a farm and/or a dwelling, the acquisition of a lucrative business, or to any other profitable investment.

As soon as the workman or employee or his beneficiaries inform the Manager of the State Insurance Fund of their decision as to the investment that they wish to make with the compensation or a part thereof, with all necessary data, reports and proofs, the Manager shall investigate everything in connection with the investment desired, and if it is proven to him that there is no risk whatsoever in making said transaction, and that the investment will be profitable to the workman or employee and will promote the ends sought by this Act, he shall authorize the investment.

When the beneficiaries, in cases of death as a consequence of labor accidents, are minors or incapacitated persons, the compensation shall be paid through the father or mother or guardian. However, no such payments shall be made through the father or mother who has abandoned or neglected his or her obligations toward the child before the death of the workman occurred; and in such case, the payment shall be made through such person as may have had the minor beneficiary under his care and attention before the death of the workman.

The Manager of the State Insurance Fund is hereby empowered to adopt such regulations as he may consider necessary with regard to the investments of compensations accruing to workmen or employees or their beneficiaries.

If the beneficiaries are minors or incapacitated persons, the Manager of the State Insurance Fund shall adopt such measures as he may deem proper and shall submit the case [to] the Industrial Commission to appoint the guardian pursuant to Section 13 of this Act.

RIGHTS OF MINORS

(g) *Rights of minors.* — In the case of workmen under eighteen (18) years of age employed in violation of the laws in force on the date of employment who suffer injuries or contract occupational diseases in accordance with the terms of this Act, the compensation accruing to them in case of disability, or to their beneficiaries in case of death, shall be double the amount accruing to a workman eighteen (18) years of age legally employed; Provided, That the employer shall pay the additional compensation provided herein, the amount of which shall constitute a lien on all the property of the employer and shall be paid in the manner provided in this Act for the collection of the compensation in cases of uninsured employers; and Provided, also, That the Manager of the State Insurance Fund shall, before collecting such additional compensation from

the employer, transfer the record to the Industrial Commission, in order that the latter may give the employer and the workman opportunity to be heard in their defense.

RIGHTS OF BENEFICIARIES

(h) *Rights of beneficiaries.* — The assignment, sale, or conveyance of the rights of workmen, employees or their beneficiaries to receive compensation payments, or any contract relative thereto, shall be null, and the compensations allowed under this Act to such workmen, employees, or beneficiaries shall not be attached, nor shall any workman, employee or beneficiary be deprived of the possession thereby by any judicial proceedings whatsoever.

TABLE OF OCCUPATIONAL DISEASES AND THEIR CAUSES

(i) *Table of occupational diseases and their causes.* — The diseases enumerated in the following table shall be considered derived from the occupation when contracted by workmen or employees in the course of the occupations therein listed, when the last exposure to the risk of contracting the disease was within twelve (12) months prior to the date of the disability caused thereby due to the nature of any of the processes described in said table, except as hereinafter provided:

<i>Name of Disease</i>	<i>Description of Process skins</i>
(1) Anthrax.....	Handling of wool, hair, hides or
(2) Glanders or carbuncles.....	Care of equine animals suffering from glanders or carbuncles.
(3) Lead poisoning.....	Any industrial process involving the use of lead or its preparations or compounds, including the use of paints containing such agent or any of its derivatives.
(4) Mercury poisoning.....	Any industrial process involving the use of mercury or its preparations or components.
(5) Phosphorus poisoning.....	Any industrial process involving the use of phosphorus or its preparations or components.
(6) Arsenic Poisoning.....	Any industrial process involving the use of arsenic or its preparations or compounds.
(7) Poisoning by benzol..... or niter, or their derivatives, of amide denitrate, anilin and others	Any industrial process involving the use of benzol, niter, amide and its derivatives of benzol or its preparations and compounds.
(8) Silicosis, provided the silicosis is the determining cause of	Industries generally recognized as being exposed to the risks of

disability or death.....	silicosis, such as silicon, rock and marble quarries; works dealing with the crushing and grinding of stone; pulverization of silicon in ceramic goods factories; glass and tile factories.
(9) Poisoning by gasoline, naphtha, or other volatile petroleum product.	Any industrial process involving the use of gasoline, benzene, naphtha, or other volatile petroleum product.
(10) Poisoning by carbon ... bisulphide	Any industrial process involving the use of carbon bisulphide or its preparations or compounds.
(11) Poisoning by wood alcohol.....	Any industrial process involving the use of wood alcohol or its preparations.
(12) Infection or inflammation of the skin on contact with compound, irritant or lubricating oils, dust, liquids, smoke, gases, or vapors.....	Any industrial process involving the handling or use of compound, irritating or lubricant oils, or involving contact with dust, liquids, smoke, gases, or vapors.
(13) Epitheliomatous cancer or ulceration of the skin or of the corneal surface of the eye, due to coal, pitch, tar, or their compounds.....	Handling or industrial use of coal, pitch, tar, or their compounds.
(14) Compressed air poisoning...	Any industrial process carried on in compressed air.
(15) Brass or zinc poisoning.....	Any industrial process involving the manufacture, founding or refining of brass or the melting or casting of zinc.
(16) Carbon dioxide poisoning.....	Any process involving the evolution or resulting in the escape of carbon dioxide.
(17) Poisoning by manganese dioxide.....	Any process involving the grinding or pulverizing of manganese dioxide or resulting in the escape of manganese dioxide.
(18) Poisoning by radium and radioactive substances.....	Any industrial process or occupation requiring the use of, or direct contact with radium or radioactive substances, or the use of X rays or ultraviolet rays, or involving direct exposure to the effects thereof.

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| (19) Poisoning by hydrocyanic acid or its derivatives..... | Any industrial process requiring the use of hydrocyanic acid or its derivatives. |
| (20) Sulfurous anhydride poisoning | Any industrial process producing or discharging sulfur dioxide gases due to the formation of liquid sulfurous anhydride. |
| (21) Poisoning by hydrogen sulfide | Any industrial process involving the use of or exposure to direct contact with or inhalation of hydrogen sulfide. |
| (22) Poisoning by inhalation of gases such as ammonium, hydrocyanic acid, acetylene, nitrogen oxides and phosgene... | Any industrial process involving the use or preparation of these gases. |
| (23) Poisoning by contact with, inhalation or ingestion of, volatile dissolvents such as carbon tetrachloride, trichlorethylene, ether, amyl acetate and the like..... | Any process involving the use or handling of these volatile substances. |
| (24) Selenium, tellurium, beryllium and cadmium poisoning..... | Any industrial process involving the use of or contact with selenium, tellurium, beryllium, cadmium, and their compounds. |
| (25) Poisoning by chromium and its compounds..... | Any industrial process involving the use of chromium and its derivatives. |
| (26) Poisoning by nickel carbonyl or its sequel..... | Any industrial process involving nickel carbonyl. |
| (27) Poisoning by formaldehyde and its preparations..... | Any industrial process involving the use of or requiring direct contact with formaldehyde or its preparations. |
| (28) Chlorine poisoning..... | Any industrial process involving the use of or direct contact with chlorine and its compounds. |
| (29) Ammonia poisoning..... | Any industrial process involving the use of or direct contact with ammonia or its compounds. |
| (30) Cataract in persons working in glass factories..... | Any process in the manufacture of glass requiring exposure to the glare of melted glass. |
| (31) Poisoning by methyl chloride or other halogen hydrocarbons..... | Any industrial process involving the use of or direct contact with methyl chloride or other halogen |

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| (32) Poisoning by sulfuric, hydrochloric or hydrofluoric acid..... | hydrocarbons.
Any industrial process involving the use of or direct contact with sulfuric, hydrochloric, or hydrofluoric acid. |
| (33) Respiratory, gastro-intestinal or physiological nervous disorders or disorders of the eyes, due to contact with petroleum and its gases..... | Any industry or employment involving the use of or direct contact with petroleum products and gases. |
| (34) Disability as a result of bursitis or synovitis..... | Any industrial process involving continuous rubbing, pressure, or vibrations of the parts affected. |
| (35) Asbestosis..... | Any industrial process involving exposure to or direct contact with asbestos dust. |
| (36) Carbon monoxide poisoning..... | Any process or occupation involving direct exposure to carbon monoxide in buildings and closed places. |
| (37) Poisoning by tetrachlormethane, or by substances used as, or together with, cellulose acetate or nitrocellulose solvents..... | Any industrial process involving the use of or requiring direct contact with substances used as or together with cellulose acetate or nitrocellulose solvents. |
| (38) Inflammation of the cornea or infections of the skin on contact with cane fuzz..... | Any employment entailing exposure of the workman to contact with cane fuzz. |
| (39) Brucellosis..... | Any occupation requiring the handling of bovine, caprine or porcine cattle, protection under the law being limited to acute cases when the hemoculture test on the patient is openly positive. |
| (40) Mogigraphia or clerk's cramp..... | Any occupation involving the need of handwriting or stenographic signs more or less continuously by using a pencil, pen or any other instrument producing similar effects. |
| (41) Bagassosis..... | Occupational disease acquired when working with sugarcane bagasse. |
| (42) | Any occupational disease acquired when working in the baking of bread and its by-products. |

In addition to the occupational diseases included in the preceding table, all diseases acquired in the course of work as a consequence of a risk peculiar to the particular industry, process, occupation or employment and as a result of direct exposure of the workman or employee to the said risk in the normal performing of his work shall be considered compensable occupational diseases, provided the last exposure to the risk of contracting the disease was within twelve (12) months prior to the date on which the first manifestations of the disability caused thereby were observed, without prejudice to the provisions hereinafter established.

Except as otherwise provided elsewhere in this Act, contagious-type, epizootic, endemic, and epidemic diseases shall not be considered as occupational, except when contracted by laboratory personnel exposed to the risk thereof in the course of their work by reason of [the] handling or examining [of] infectious material.

The right of a workman or employee to claim compensation for a disability originating from a disease caused by compressed air or by retarded pathological changes of a malignant character in the bones, blood or lungs, caused by occupational exposure to or contact with arsenic, benzol, beryllium, cadmium, chromium, lead, fluorine, or exposure to X-rays, radium, or radioactive substances, or other substances of whatever nature, that may produce retarded effects in the human organism, shall not be impaired by the lapse of the twelve-month term after the last exposure, as provided above, if it is determined by a physician that the effects of the disease may be produced after a greater lapse of time.

The claims in cases of occupational diseases shall be established within a period of time not to exceed three (3) years, reckoning from the date on which the workman learned of the nature of the disability and its relation to the work, or could have learned through the exercise of reasonable diligence.

The Manager of the State Insurance Fund is hereby authorized and empowered to add to this table all those diseases which, as determined after due investigation, should be considered compensable occupational diseases.

Section 3-A. — Diseases of Respiratory System. (11 L.P.R.A. § 4)

In addition to the occupational diseases set forth in the preceding section, there shall be considered as such, for compensation purposes, any disease of the respiratory system of a tuberculous origin acquired in the course of work and as a consequence thereof by a person exposed to contact in the course of his daily work in hospitals, dispensaries, offices, or health centers devoted to the diagnosis and treatment of tuberculosis of the respiratory system and in laboratories in which is handled and examined infective tuberculous material, whether said hospitals, dispensaries, offices, centers and laboratories are operated by the Commonwealth or municipal governments or by private persons or entities, subject to the following conditions which establish, beyond any reasonable doubt, the connection of causality between the disease on [of] the person suffering therefrom and his work:

1. No person may begin to work in a hospital, dispensary, office or health center devoted to the diagnosis and treatment of tuberculosis of the respiratory system or in a laboratory in which is handled and examined infective tuberculous material, independently from the number of employees, without having been subjected before or within a month after assuming his duties, the determination that he does not suffer from tuberculosis of the respiratory system by the agency of the Department of Health that the Secretary may

designate and without so being certified to the Manager of the State Insurance Fund, as provided by subsection (i) of this section. Said determination shall be made pursuant to the best practices of medicine in this field and shall always include the radiographic examination of the lungs.

2. Every person working in a hospital, dispensary, office, or health center devoted to the diagnosis and treatment of tuberculosis of the respiratory system or in a laboratory in which is handled infective tuberculous material, irrespective of the number of employees, shall, at the time this act takes effect, within the month preceding or following said date, submit himself to examination at the agency which the Secretary of Health may designate, for the purpose of determining whether or not said person suffers from tuberculosis of the respiratory system. This determination shall be made pursuant to the best practices of medicine in this field and shall always include the radiographic examination of the lungs.

(a) Every person comprised within this clause on whom the determination is made that he is not suffering from tuberculosis of the respiratory system shall be so certified to the Manager of the State Insurance Fund.

(b) Every person comprised within this clause who is determined to be suffering from chronic tuberculosis of the respiratory system, classified as inactive according to the standards established by the National Tuberculosis Association of the United States, standard for the diagnosis of tuberculosis, 1950 edition, and as may subsequently be amended, may continue in his work, but shall not be entitled to compensation if the reactivation occurs before twenty-four (24) months have elapsed after this act has taken effect. The determination of inactivity shall be made by the agency of the Department of Health that the Secretary of Health may designate and shall be so certified, as prescribed in subsection (i) of this section.

(c) Every person comprised within this clause who is determined to be suffering from active tuberculosis of the respiratory system and who has been working for ninety days or over in a hospital, dispensary, office or health center devoted to the diagnosis and treatment of tuberculosis of the respiratory system or in a laboratory in which is handled infective tuberculous material, shall be considered as sick as a result of his work and as a consequence thereof and may avail himself of the provisions on compensation provided in this Act, except if it is shown that he was suffering from active tuberculosis of the respiratory system on the date he began to render services.

3. It shall be considered that the tuberculosis of the respiratory system has been acquired in the work and as a consequence thereof, if it reveals itself after ninety (90) days after beginning to work, although it was not present before; Provided, That those persons who are working at the time this act takes effect and continue to work on account of the examination having revealed that they are not suffering from tuberculosis of the respiratory system and acquire tuberculosis before ninety (90) days have elapsed since the date of the examination, shall be covered by the provisions of this Act as to compensation, provided they have been working before this act takes effect for the time necessary to complete the ninety (90) days herein established.

4. There may be employed in a hospital, dispensary, office or health center devoted to the diagnosis and treatment of tuberculosis of the respiratory system, any such persons who suffer or have suffered from chronic tuberculosis of the respiratory system provided it is classified as inactive, in accordance with the standards established by the National

Tuberculosis Association of the United States, standard for diagnosis of tuberculosis, 1950 edition, as it may be subsequently amended and being certified as such to the Manager of the State Insurance Fund, as established in subsection (i) of this section, but such persons shall not be covered by the provisions on compensation established herein unless active tuberculosis of the respiratory system is revealed in them after twenty-four (24) months have elapsed after he began to work.

5. Every employee of a hospital, dispensary, office or health center devoted to the diagnosis and treatment of tuberculosis or of a laboratory in which is handled infective tuberculous material, irrespective of the number of employees, shall be submitted to examination each six (6) months for the purpose of determining if he suffers from active tuberculosis of the respiratory system. This determination shall be made pursuant to the best practice of medicine in this field and shall always include the radiographic examination of the lungs. The Secretary of Health shall designate the agencies of the Department of Health which shall make the same, and the competent authorities of the hospital, dispensary, office or health center or laboratory are under obligation to see to it that this provision is complied with, as well as to send to the Manager of the State Insurance Fund the corresponding certificates, according to the provisions of subsection (i) of this section.

6. Irrespective of the examination each six (6) months, every employee who ceases in his employment in a hospital, dispensary, office or health center devoted to the diagnosis and treatment of tuberculosis of the respiratory system, or in a laboratory in which is handled infective tuberculous material, irrespective of the number of employees, must be submitted to examination to determine if he suffers from active tuberculosis of the respiratory system. This determination shall be made according to the best practices of medicine and shall always include the radiographic examination of the lungs. This examination must be performed within a month prior to the termination of his services. Active tuberculosis of the respiratory system revealed after ninety (90) days of the last day worked shall not be entitled to compensation. The proper administrative authority shall inform the Manager of the State Insurance Fund of the result of this examination of cessation in each case and as provided in subsection (i) of this section.

Whenever the Manager, after the medical determination rendered in any case, arrives at the conclusion that no additional treatment can have the effect of rehabilitating the patient for work, he shall proceed to fix thereto the degree of disability he has contracted and, after the compensation has been liquidated, the case shall be closed for all purposes of law. The workman may appeal from such decision to the Industrial Commission within thirty (30) days after he is notified thereof.

7. Any employee covered by this Act who refuses to submit to the examinations herein provided, ipso facto forfeits any right to compensation under the provisions of this Act, and such refusal shall be reported in writing to the Manager of the State Insurance Fund by the competent administrative authority.

8. The Department of Health shall be under obligation so to examine such employees, both prospective and actual, at no cost whatsoever to them, before, during, and upon the termination of their employment, whether they are Commonwealth or municipal government employees or employees of private individuals or entities, giving these cases any priority necessary toward non-delay of the prompt employment of those who are employable. The Department of Health shall establish the procedure by which the reports concerning their

own employees are to be sent to the Manager of the State Insurance Fund and shall remit to any private individuals or entities who are employees and to the competent municipal authorities the reports on their employees, the sending of which latter reports to the Manager of the State Insurance Fund shall be the responsibility of the said employers and competent municipal authorities.

9. Private employers, whether individuals or entities, shall be under obligation to do such part as falls to them within the provisions of this Act. If they have not done so in connection with any case in which the right to compensation is established or in which such right to compensation might have been established if they had done their part, the Manager of the State Insurance Fund shall, after paying such compensation, be under obligation to determine and collect from the employer the amount of the compensation, following for such determination and collection the procedure established for non-insured employers. In the case of a Commonwealth or municipal government employee who has contracted active tuberculosis of the respiratory system in connection with which the competent administrative authority has not fulfilled his part of the responsibilities fixed by this Act, the Manager of the State Insurance Fund may, if the circumstances show that the right to compensation would have been clearly established if those responsibilities had been fulfilled, take steps, after paying the compensation, toward securing, in accordance with the procedure established by law, from the said Commonwealth or municipal government, the payment of the sum involved, resorting, if necessary, to the Legislature of Puerto Rico for a specific appropriation for that purpose; Provided, That the municipal legislatures and the Board of Commissioners of the Capital shall include in their budgets the amounts of the compensations granted by the Manager which they are bound to pay pursuant to the provision of this subsection.

10. Employers who have hospitals, dispensaries, or health offices or centers devoted to the diagnosis and treatment of tuberculosis of the respiratory system, and in laboratories where infective tuberculous material is handled and examined, whether it be the Commonwealth or municipal government or private persons or entities, shall be under obligation to insure their employees independently of the number thereof and of the provisions of Section 2 and 18 of the Workmen's Accident Compensation Act [11 L.P.R.A. §§ 2 and 19] and shall also be subject to the same penalties provided by this Act for those employers who fail to comply with the law.

11. It shall also be understood that all persons who were working on the date Act 401 of April 23, 1946 took effect at the places and in the manner prescribed by this Act, and those who began to work after that date, shall be equally protected by the provisions thereof, provided they have been the object of medical examinations which constitute authentic proof of having contracted the illness in the employment.

The Manager shall accept such examinations as final proof, even if they have been made by Public Health Units, Municipal Hospitals, District Hospitals or by any other hospital of the Commonwealth Government, or by private hospitals utilized by the Savings and Loan Fund Association of the Employees of the Commonwealth Government, when such examinations have been made to determine the admission of employees in said Association, and any other authentic proof. In cases in which the claimants are not Commonwealth Government employees, the Manager shall accept authentic medical proof that the illness was contracted in the course of the employment and as a result thereof.

The Manager shall review the claims decided by him under Act No. 401 of April 23, 1946, in connection with these provisions.

In every case in which the Manager, after the medical determinations rendered for the purpose, arrives at the conclusion that the continuance of the treatment shall not result in the rehabilitation of the patient for work, the said Manager shall proceed to fix to said patient the resulting disability, and the liquidation of the compensation granted shall have the effect of closing the case for all purposes of law. The workman may appeal from such decision to the Industrial Commission within thirty (30) days after he is notified thereof.

Section 3-B. — Additional Compensation. (11 L.P.R.A. § 4a)

In those cases that the injury, occupational disease or death which entitles the worker, employee, or their beneficiaries to compensation pursuant to this Act, have been caused as a result of violations to Act No. 16 of August 5, 1975, as amended [29 L.P.R.A. §§ 361 et seq.], or of the rules and regulations approved by virtue thereof, duly notified and not corrected within the term prescribed by the Secretary of Labor and Human Resources, the injured worker, or his/her beneficiaries in case of death, shall be entitled to receive additional compensation equal to three (3) times that established in this Act.

The additional compensation provided herein shall be paid by the Administrator, all at once, from the Fund for Uninsured Employers' Cases. The amount of said additional compensation shall be billed to the employer and shall constitute a lien on all his/her property, making it available, as provided in this Act, for the collection of the compensation in the case of uninsured employers. The sums to be paid by virtue of this section shall not be taken into account for the purposes of fixing premiums.

The Secretary of Labor and Human Resources and the Administrator of the Corporation of the State Insurance Fund, shall jointly establish the regulations needed to process, the handling by among both agencies, for the additional compensation payment. The regulations herein authorized shall be completed within sixty (60) days from the effective date of this act.

The employer may appeal the Administrator's decision imposing additional compensation before the Industrial Commission within a term of thirty (30) days after having been served.

Section 4. — Excepted Cases of Accidents. (11 L.P.R.A. § 5)

Accidents occurring under the following circumstances are not compensable labor accidents, and, therefore, shall not entitle a workman or employee, or his heirs, to compensation under this Act:

- (1) When the workman or employee attempts to commit a crime or to injure his employer or any other person, or when he wilfully causes himself the injury.
- (2) When the workman or employee is intoxicated, provided such intoxication is the cause of the accident.
- (3) When the recklessness of the workman or employee is the sole cause of the injury.

Section 5. — Medical Examination and Treatment. (11 L.P.R.A. § 6)

During the period of disability, the workman or employee who is injured or sick under the circumstances covered by this Act shall submit to treatment and examination, at reasonable times and places, by a competent physician designated by the Manager; Provided, That if the Manager does not provide the workman or employee with adequate attendance, the said workman or employee may appeal to the Industrial Commission, which, after an investigation by a physician designated for the purpose, shall order such attendance as may be proper in the case, and the Manager shall comply with the order of the Commission; and, Provided, further, That when the nature of the accident makes it necessary at the discretion of the Manager or of his authorized representative to accommodate and attend to, the injured workman or employee in a government hospital, said hospital may charge the State Insurance Fund for the attendance and the stay of the injured workman in his hospital in the amount that the Manager may agree.

The injured workman or employee shall be entitled to designate, for his own account, a physician or surgeon to be present at his examination or to treat him. This, however, shall not affect the right of the physician or surgeon designated by the Manager to visit the injured workman or employee at all such times as he may deem proper, and under reasonable circumstances, during such time as the workman or employee may be disabled for work.

The refusal or objection of a workman or employee, without just cause, to submit to the medical examination or professional treatment provided by the Manager shall deprive him of his right to receive compensation under this Act or to institute or bring proceedings hereunder to recover such compensation; Provided, That should the workman or employee fail to present himself to the physician for professional treatment within a period of not more than five (5) working days after the accident occurs, and fails to explain his delay satisfactorily to the Manager, said Manager may deprive him of his right to receive any compensation, but under no circumstances can the workman or employee be denied such medical attendance as, in the judgment of the Manager, may be deemed necessary in endeavoring to bring about his complete recovery; Provided, however, That when the workman has satisfactorily explained his delay, the Manager shall be under obligation to pay him the total compensation or compensation for the disability, including per diems for such time as he may have been under medical treatment; and Provided, further, That in order to appraise and verify the disability affecting the workman or employee, the Manager may compel the personal appearance of the injured person at the expense of the State Fund.

In case of the death of a workman or employee, under the conditions fixed in this Act, the Manager of the State Fund may order an autopsy of the corpse to be performed. If the relatives of the deceased consent to the said autopsy, then the Manager shall designate the physician-surgeon who is to perform it, and the medical fees and any other expense incurred for such reason shall be for the account of the State Fund.

Every physician performing an autopsy by order of the Manager shall send, without delay, to the School of Medicine of the Commonwealth of Puerto Rico, or to any pathologist of recognized professional competence designated by the Manager, such viscera as may be necessary for the said institution or the pathologist designated by the Manager to carry out an analysis and verifying examination of the report rendered by the physician performing the autopsy. The certified report of the physician as the result of the autopsy, as well as that rendered by the School of Medicine or by the pathologist designated by the Manager, shall be attached to

the record of the case for due consideration thereof; and said reports may be admitted as evidence in any proceeding before the Manager or the Industrial Commission.

Nothing in the foregoing provisions shall be construed in the sense of depriving the beneficiaries or relatives of the deceased workman or employee of their right to designate, for their own account, a physician-surgeon to be present at the autopsy or to participate therein together with the physician designated by the Manager; Provided, That the refusal of the relatives or beneficiaries to consent to the performance of the autopsy shall in no way affect their right to claim and obtain compensation, nor shall it constitute any presumption against the right of the claimants.

In cases of permanent partial disability and permanent total disability, workers or employees, at the instance of the Administrator, are compelled to appear before the Industrial Commission to submit to an examination for the purpose of ascertaining if their disability has ceased during the period they receive compensation, which shall be suspended as soon as such disability ceases; Provided, That if workers or employees who are permanently and totally disabled due to the total and permanent loss of industrial vision in both eyes, both feet at or above the ankle, both hands at or above the wrist, a hand and a foot or for becoming paraplegic or quadriplegic, or for the permanent loss of the functions of both legs so that they are bound to move about in a wheelchair; and in spite of their condition they have been rehabilitated in any other area of industry, the compensation they are entitled to for total or permanent disability shall not be suspended even though the Industrial Commission determines that said disability has ceased, according to the provisions of subsection (d) of Section 3 of this Act. It shall be understood that once three (3) years have transpired as of the definitive closing date of the case, the case shall not be reopened except for those cases expressly provided in subsection 1.A of Section 3.

Section 5-A. — Reinstatement Following Disability. (11 L.P.R.A. § 7)

In the cases of working disability according to the provisions of this Act, the employer shall be under the obligation to reserve the job filled by the laborer or employee at the time the accident occurred, and to reinstate him/her therein, subject to the following conditions:

- (1) That the laborer or employee demand reinstatement from his/her employer in his/her job within the period of fifteen (15) days counted from the date the laborer or employee is discharged from treatment or authorized to work with the right to receive treatment, and provided such demand is not made after the lapse of twelve (12) months from the date of the accident;
- (2) that the laborer or employee be mentally and physically fit to fill said job at the time he/she demands reinstatement from his/her employer, and
- (3) that said job still exists at the time the laborer or employee demands reinstatement. (The job shall be understood to exist when the same is vacant or is being filled by another laborer or employee. The job shall be presumed to be vacant when the same was filled by another laborer or employee within thirty (30) days following the date in which the demand for reinstatement was made.)

If the employer does not comply with the provisions of this section, he/she shall be under the obligation to pay the laborer or employee or his/her beneficiaries the wages said laborer or employee would have received if reinstated; also, the employer shall be responsible for all damages he/she has caused him/her. The laborer or employee or his/her beneficiaries may

prosecute and file the corresponding claim for reinstatement and/or damages in court through ordinary proceedings or through the procedure for claiming wages set up by Act No. 2 of October 17, 1961 [32 L.P.R.A. §§ 3118-3132].

Section 6. — Organization of Workers' Compensation Services; Administrator of the State Insurance Fund; Industrial Commission. (11 L.P.R.A. § 8)

I. Services organizations.

The following entities shall be in charge of the rendering of compensation services to workers and employees:

(A) *The Office of the Administrator of the State Insurance Fund*, which is hereby created, shall be in charge of the following duties and functions:

The Administrator shall establish the administrative structure of the State Insurance Fund, and shall establish, organize and administer its own adequate systems and appropriate controls regarding personnel, budget, purchases, and accounting, and any other administrative system necessary for an efficient and economic operation of the services, without being subject to the provisions of Act No. 345 of May 12, 1947, as amended, known as the „Personnel Act,“ Act No. 96 of June 29, 1954, known as the „Procurement and Service Act,“ and Sections 81 through 89 of Act No. 213 of May 12, 1942, as amended, known as the „Puerto Rico Planning and Budget Act,“ with the exception of what is hereafter provided in regards to the Personnel Act.

The Administrator shall be empowered to purchase, contract or otherwise provide the SIFC with all the materials, supplies, equipment, parts, or services which he/she may deem necessary or convenient for its operation. He/she shall likewise be empowered to reinsure part of the risks that under the provisions of this chapter he/she is bound to insure, if he/she deems it necessary and advisable in order to safeguard the economic solvency of the State Insurance Fund.

He/she shall provide medical, hospital, and physical rehabilitation services; make compensation payments and liquidate the cases of workers and employees insured in the State Insurance Fund. He/she shall also constitute the insurer known as „State Insurance Fund.“ Provided that, in order to ensure the continuous and effective rendering of services in cases where the execution of a contract before rendering such services would not be possible, the Administrator may authorize payment for professional medical and hospital services, specialized medical services or any other services related to the health of the injured worker to providers that do not have a contract in effect with the State Insurance Fund at the time that the services are rendered. The SIFC shall adopt regulations governing the issuance of payment to providers without a contract within a term not to exceed ninety (90) days from the date on which this Act takes effect. Likewise, said Administrator shall insure, pursuant to the law and regulations, all employers required by law to be insured with the State Insurance Fund. He/she shall authorize, oversee, and make all disbursements which, according to the law, should be made against the State Insurance Fund, and shall ensure the timely remittance of the imposition of workers’ compensation insurance premiums to the employers as well as to the municipalities, and in the case of the municipalities, he/she shall comply with the provisions set forth in Sections 1b–4 of this Act, and shall perform all other duties conferred upon him/her pursuant to this chapter and to the regulations adopted thereunder. Provided,

that payments made under the preceding provisions may be reimbursed to the State Insurance Fund and shall be credited to an account to be kept by the Administration of the Fund, which shall be known as „Outstanding Debts“; provided, further, that both the warrants issued and the checks drawn in payment of the obligations contracted shall state on the face thereof the term within which they may be cashed, which shall not be less than six (6) months nor more than two (2) years from the issue date. The drawee of a check so reimbursed shall have the right to cash it in the manner established for the claims authorized and liquidated against the Commonwealth of Puerto Rico.

The Manager of the State Fund shall be the head of the said office, and shall be appointed by the Governor, by and with the advice and consent of the Senate, for a term of six (6) years.

The Manager of the State Fund shall furnish bond in the sum of twenty-five thousand dollars (\$25,000) conditioned upon the faithful performance of his official duties, the premium on which shall be paid by the State Fund. Said bond shall be approved by the Secretary of the Treasury as to amount, and by the Secretary of Justice as to legal form.

The Manager of the Fund shall require the furnishing of a bond for such amount as he may deem adequate, from all officers or employees under his orders and who, for any reason, have charge of the handling of funds. The premiums on these bonds shall also be paid by the State Fund and shall be approved in the same manner as the bond of the Manager.

The Manager or the officer whom he may designate shall represent the State Insurance Fund before any agency or institution established by laws in force.

(B) *Industrial Commission.*

(1) *Creation and organization.* — A Commission is hereby created, to be denominated as the ‘Puerto Rico Industrial Commission,’ constituted by five (5) Commissioners appointed by the Governor with the advice and consent of the Senate of Puerto Rico, who shall be attorneys-at-law duly admitted to the bar in Puerto Rico. The Governor, with the advice and consent of the Senate, shall designate the Chair, who shall serve simultaneously as a Commissioner and the Administrative Head of this Agency, who shall set forth and administer the public policy with discharge rulemaking authority or to delegate such authority. In order to carry out this task, he/she shall preside and direct the functions of the Commissioner panel, whose appointments shall have an effective term of six (6) years.

Commissioners shall remain in office until their successors are legally designated and take office. The designations to cover vacancies that may arise for reasons other than the expiration of the term set forth by law shall be extended until the expiration of the term of the vacancy. Commissioners and Examining Officials, during their term of office, shall not engage in doing business or to the practice their profession privately.

The main headquarters of the Industrial Commission shall be located in San Juan, but [the] same may constitute itself or act anywhere within the Commonwealth of Puerto Rico, and establish the regional offices it deems necessary for the performance of its duties set forth by law.

The President shall be the administrative head and nominating authority of the Commission. To such effects, the President shall adopt all personnel determinations and shall be responsible for enforcing of the public policy and purposes of this Act. He/she shall report directly to the Governor, and shall carry out all duties, responsibilities, and

prerogatives of his/her office, pursuant to the regulation set forth by the Commission to these effects.

In addition, the President shall oversee the faithful compliance and uniformity of the adjudicative public policy set forth in this Act. He/she shall also be empowered to hire and designate personnel and officials to perform the duties of the Commission, pursuant to the dispositions in this Act. He/she may purchase, hire, or otherwise provide for the Commission all the materials, supplies, equipment, parts, or services he/she deems convenient for the operations of the Commission. Such powers shall be exercised according to the dispositions set forth by the applicable laws in effect.

The President may delegate the administrative duties set forth in reliance on this Act upon an Executive Director, who shall be in office as long as same enjoys the confidence of the President. The President shall establish the duties and powers of the Executive Director, except for the exercise of the nominating authority.

The Industrial Commission shall be an agency excluded from the dispositions set forth in Act No. 5 of October 14, 1975, known as the "Puerto Rico Public Service Personnel Act", except for matters pertaining to the essential areas of the merit principle. His/her personnel system shall be based upon the merit principle and in accordance with the rules and regulations adopted by the President. The Commission shall have the confidential charges allowed by the applicable laws in effect.

Since the source of funds for the operation of the Commission is the State Insurance Fund Corporation, which operates as a corporate instrumentality, pursuant to Act No. 130 of May 8, 1945, as amended [29 L.P.R.A. §§ 61 et seq.], and do not burden the General Budget of Puerto Rico, the right of the employees pursuant to said sections to organize among themselves; constitute, affiliate, or assist labor organizations; negotiate collectively, including the establishment of procedures to hear claims and grievances by means of selected representatives, is hereby acknowledged. All allegations regarding illegal practices shall be handled by the Labor Relations Board.

All employees occupying equal or similar positions to those that comprise the appropriate negotiations unit acknowledged in the collective bargaining agreement in effect shall be included in said unit, with all guaranteed rights and duties entailed with the certification already in effect.

The final resolutions of the Industrial Commission may be revised by the courts of justice pursuant to the dispositions set forth in Act No. 1 of July 28, 1994, as amended, known as the "Puerto Rico Judiciary Act of 1994". The recourse of revision shall be exempt from the payment of fees.

The Industrial Commission shall oversee compliance with the social objectives of this Act and that the same are administered in such a manner that they respond to the needs of the times. It shall also have functions of a ‘quasi-tutelary’ and ‘quasi-judicial’ nature for the investigation and resolution of all cases of accidents in which the Corporation and the injured employee, or his/her beneficiaries, do not reach an agreement with regard to the compensation; and the Commission shall only represent the public interest in the discharge of its functions. All determinations requiring the action of the Commissioners shall be by the majority of its members and three (3) Commissioners shall constitute [a] quorum.

(2) *Industrial Commission's Budget.*

(a) The Governor shall submit the expense budget of the Industrial Commission to each Regular Session of the Legislature, pursuant to the provisions established by law, for its approval.

(b) The Corporation shall keep a fund or special account from which the Secretary of the Treasury shall transfer a sum to meet the expenses of the Industrial Commission; an amount that shall always be equal to four percent (4%) of the total receipts of the Corporation's premiums during the previous fiscal year. In the event the authorized budget is greater than the amount transferred by the Corporation, the difference shall be charged to the general budget.

(c) The Secretary of the Treasury shall pay and charge against the fund or special account established in the previous clause, all warrants or vouchers drawn against the Industrial Commission, when they are authorized by the President, and approved by the Secretary of the Treasury.

II. *Means and methods.* —

ARBITRATION BOARD

(a) *Arbitration Board.* — There is hereby created an Arbitration Board to be composed of an authorized representative of the Manager, an authorized representative of the employees and workers of the State Insurance Fund and a third representative which they shall designate by mutual agreement. If the parties should not reach an agreement within ten days in regard to the selection of the third member, he shall then be selected by the Secretary of Labor and Human Resources. Provided, That the person designated by the Secretary of Labor and Human Resources shall not be an officer or employee of the Executive Branch.

The decision rendered by the majority of said Arbitration Board shall be binding upon all parties.

JURISDICTION OF THE LABOR RELATIONS BOARD

(b) *Jurisdiction of the Labor Relations Board.* — Jurisdiction is hereby conferred upon the Labor Relations Board of the Commonwealth of Puerto Rico over the State Insurance Fund, so that the employees and workers of said agency may exercise their rights to organize themselves and to collectively bargain with their employer through mediation of representatives of their own free choosing.

OBLIGATION OF THE EMPLOYEES AND OF THE AGENCY

(c) *Obligation of the employees and of the Agency.* — The employees and the State Insurance Fund are under obligation to do all within their power to settle management-labor disputes through collective bargaining and through the fulfillment of the collective bargaining agreement entered into, and not otherwise, so as to prevent stoppage of the services they render to the public.

The provisions of Act No. 11 of May 22, 1965 [29 L.P.R.A. §§ 91-97] shall apply when so required by the circumstances.

DESIGNATION OF CONCILIATOR

(d) *Designation of conciliator.* — If in the opinion of the Secretary of Labor the process of negotiating a collective bargaining agreement between the State Insurance Fund and its employees has come to a halt, the parties having exhausted all possible means to settle the dispute, the Secretary of Labor shall proceed to designate a conciliator, who shall, as soon as possible, get together with both parties in dispute and make all reasonable effort to arrive at a prompt and satisfactory solution of the conflict.

PROCEDURE FOR CONCILIATION

(e) *Procedure for conciliation.* — Should the conciliator fail to harmonize the parties in dispute within a term of thirty (30) days counting from the date of his designation, he shall so notify the Secretary of Justice, who may grant an additional term of fifteen (15) days for settling the dispute, and if the conciliator cannot attain it within said additional term, then action shall proceed according to the provisions hereafter provided.

GRIEVANCE COMMITTEE

(f) *Grievance Committee.* — Every collective bargaining agreement to be granted between the parties shall contain a clause providing for the creation of a Grievance Committee for the settlement of disputes, complaints and grievances. The Committee shall be composed of an equal number from both parties and presided over by an outsider unanimously chosen by the members of the Committee.

Should the Committee fail to agree as to the selection of a Chairman within the term of ten (10) days, the same shall be designated by the Secretary of Labor and Human Resources, but the person so designated shall not be a public employee or officer.

POWERS OF THE COMMITTEE

(g) *Powers of the Committee.* — The Grievance Committee shall have the following powers:

- (1) Hold hearings;
- (2) administer oaths;
- (3) require the appearance of witnesses;
- (4) issue subpoenas, and
- (5) require all such information or proof as it may deem necessary for the settlement of the dispute.

DISOBEDIENCE OF SUBPOENA

(h) *Disobedience of subpoena.* — In case of nonappearance or of disobedience by any person of a subpoena issued by the Grievance Committee, any part of the Court of First Instance of Puerto

Rico, within whose jurisdiction said person is found, resides, or does business shall, upon petition of the Committee, have jurisdiction to issue against such person a subpoena to appear before the Committee for the purposes of giving testimony or presenting documentary evidence with regard to the matter under investigation or hearing. Disobedience of such order, unless for a justified cause, shall constitute contempt of court.

SERVICE OF ORDERS, SUBPOENAS, OR OTHER DOCUMENTS

(i) *Service of orders, subpoenas, or other documents.* — Orders, subpoenas, or other documents issued by the Committee or by its Chairman, may be served personally or by registered mail with acknowledgment of receipt, by telegraph or by leaving copy thereof at the main office or place of business of the person or organization to be notified.

An affidavit by the server shall be proof thereof, and the return of the post-office or telegraph receipt shall also be proof of the service.

COOPERATION OF DEPARTMENTS AND AGENCIES OF THE GOVERNMENT

(j) *Cooperation of departments and agencies of the Government.* — The various departments of the Government shall furnish the Grievance Committee, at the request thereof, all records, documents, and reports in their possession bearing upon any matter before the Committee.

FINDINGS OF FACT AND DECISION

(k) *Findings of fact and decision.* — The Grievance Committee shall submit, in writing, the decision containing its findings of fact and deciding on the matters object of the dispute. Decisions shall be made by the majority and shall be final and binding upon all parties.

INTERPRETATION OF COLLECTIVE BARGAINING AGREEMENTS

(l) *Interpretation of collective bargaining agreements.* — When the dispute concerns only the interpretation or application of a collective bargaining agreement, the Grievance Committee shall only have authority to determine on the interpretation or application of the clauses object of dispute.

LIMITATION OF DECISIONS

(m) *Limitation of decisions.* — The Grievance Committee shall not make any decision in violation of the rights of the agency to manage and direct its operations, or interfere with the internal administration of any employees or workers union, except when such rights of the agency or union are limited by any collective bargaining agreement in effect at the time the decision is made.

SERVICE OF DECISIONS

(n) *Service of decisions.* — The Grievance Committee shall serve copy of its decisions on each party to the dispute and on the Secretary of Labor and Human Resources.

ARBITRATION DECISIONS AND MEANS OF ENFORCING THEIR COMPLIANCE

(o) *Arbitration decisions and means of enforcing their compliance.* — Arbitration decisions issued pursuant to the provisions of this Act may be put into effect by the Supreme Court of Puerto Rico, either by legal action brought by any of the parties or through the procedure established by the Puerto Rico Labor Relations Act in its Section 9, subsection 2, clause (c) [29 L.P.R.A. § 70(2)(c)].

PROVISIONAL MEASURES

(p) *Provisional measures.* — The Grievance Committee may adopt provisional measures concerning a dispute pending resolution.

INTERRUPTION OF SERVICES TO THE PUBLIC PROHIBITED

(q) *Interruption of services to the public prohibited.* — It shall be the unavoidable duty of both the State Insurance Fund, as well as the union, to discuss and reach an agreement concerning their collective bargaining which governs their management-labor relations and neither the agency nor the union, nor any employee or group of employees shall interrupt or lessen or attempt to interrupt or lessen the services rendered by the said agency to the public by reason or by cause of the negotiation, adjustment, interpretation, or application of a collective bargaining agreement or as a result of any management-labor dispute.

COMPULSORY ARBITRATION

(r) *Compulsory arbitration.* — If the parties fail to reach an agreement with the intervention of a conciliator designated by the Secretary of Labor, as previously provided in this Act, they shall be under obligation to submit to the Arbitration Board any dispute that brings to a halt the negotiation of a collective bargaining agreement.

DUTIES AND POWERS OF THE ARBITRATION BOARD

(s) *Duties and powers of the Arbitration Board.* — The Arbitration Board shall, in the fulfillment of its functions, have the same duties and powers as herein granted to the Grievance Committee, and its decisions shall be final and binding upon all parties and may be enforced pursuant to the provisions previously provided.

DISCIPLINARY MEASURES

(t) *Disciplinary measures.* — It shall be unlawful for the State Insurance Fund to discharge, suspend, lower the wages of, or otherwise discriminate against any of its employees contrary to the purposes of this Act, but it may take whatever disciplinary measures it may deem necessary in regard to those employees who violate the provisions previously provided in the part entitled "Interruption of Services to the Public Prohibited."

APPEAL

(u) *Appeal.* — From every order imposing disciplinary measures appeal may be taken by the aggrieved party or parties or by the union, to the Grievance Committee, and the appeal shall be processed and decided as an ordinary dispute.

UNLAWFULNESS OF LOCKOUT

(v) *Unlawfulness of lockout.* — It shall be unlawful for the State Insurance Fund to resort to a lockout of all or parts of its divisions, activities or services on the ground that its employees engage in activities concerted in their interest or benefit, or in the interest or benefit of a labor organization of its own choosing, provided such activities do not result in a stoppage in whole or in part, of the works of the said agency.

RIGHTS OF INDIVIDUAL EMPLOYEES

(w) *Rights of individual employees.* — None of the dispositions set forth in this Act shall be understood as compelling any employee to do work without his/her consent or to prohibit same from renouncing employment. In the exercise of the duties and powers conferred by this Act to the Administrator or the Industrial Commission, [the] same may avail themselves, for summons of their investigations and compliance in general with this Act, of the assistance of the Court of First Instance, the Puerto Rico Police, the Department of Labor and Human Resources, and the Department of the Treasury.

Any person who violates any of the dispositions set forth in this Act, or of the duly approved and promulgated regulations, or who refuses to appear at the written subpoena issued by the Administrator or the Industrial Commission, and does not submit just cause for said refusal to appear to render testimony regarding an event of which same has knowledge, shall be guilty of a misdemeanor, and if convicted, shall be penalized by the court with jurisdiction with a fine of not more than fifty dollars (\$50), or a jail term of not more than thirty (30) days.

The Industrial Commission shall have exclusively quasijudicial and quasitutorial[y] duties for the investigation and resolution of all accident cases in which the Administrator and the injured worker or employee, or his/her beneficiaries, do not reach an agreement regarding the compensation, as set forth in Section 9 of this Act [11 L.P.R.A. §11], and in the exercise of their duties shall represent public interest only. A majority of the Commission shall constitute [a] quorum. The vacancy or absence of two members shall not hinder the rights of the remaining members to exercise all the duties and powers conferred by this Act.

The Commission and the Manager of the State Fund shall have official seals to authenticate their orders, decisions, or resolutions, and the certified copies of their orders, resolutions, or decisions issued by the Secretary of the Commission or by the Manager under their seals shall be deemed, like the originals, to be evidence of their contents; Provided, That the records of the investigation of cases in accordance with this Act, now in the possession of the Manager of the State Fund, shall be admissible as evidence by the Industrial Commission.

The sessions of the Commission shall be public and its procedures shall be recorded in the minutes, which shall be published. The Commission shall publish the decisions of new cases, or cases of great interest for the implementation of public policy for general knowledge.

The Industrial Commission shall have the power to approve rules and regulations to carry out the provisions, powers, and duties prescribed for it by this Act, and to make the proceedings before it simple and summary. Such rules and regulations, upon being approved by the Governor and duly published and promulgated, shall have the force of law.

The sessions held by the Commission shall be public.

ADVISORY BOARD

(x) *Advisory Board.* — The Manager shall appoint an Advisory Board to include an equal number of employers and workmen representatives who may be reasonably considered such representatives because of their vocation, employment, or affiliation, and of such members in representation of the public interest as the Manager may deem convenient to appoint. Said board shall assist the Manager, through advice and recommendations, to obtain the most effective and broadest development of the compensation and service program for the workmen and employees. The Manager may, further, appoint special boards to fulfill proper services, following the same norm established herein for the general advisory board. The members of said boards shall hold office without remuneration, but they shall be paid a per diem of twenty dollars (\$20) and travel expenses incurred in the performance of their duties. The advisory board shall meet as often as the Manager may deem necessary but never less than twice a year. Said board shall make reports on its meetings, including a record of the matters discussed and its recommendations. The Manager shall keep said reports at the disposal of interested persons or groups. Neither the Advisory Board nor the special boards shall exercise administrative functions.

FINANCES

(y) *Finances; State Insurance Fund's Budget.* — The finances for the administration of this service shall be subject to the following rules:

The Office of the Administrator of the State Insurance Fund shall render the services entrusted to it by this Act in accordance with its own annual budget, which, once it has been approved by the Governor of Puerto Rico at the proposal of the Administrator, shall have force of law. Said budget shall include the necessary appropriations or items to comply with the collective bargaining agreements granted by the Administrator of the State Insurance Fund. The State Insurance Fund shall set aside the funds needed for the payment of the services rendered by the Medical Services Administration of Puerto Rico to the Fund's hospital, located on the Administration's land. The sum reserved for the above purpose shall not be used for any purpose other than that provided herein. The criteria to be used to reserve said funds shall be determined

by the Administration, in coordination with the State Insurance Fund, based on the experience of previous years, the volume of projected services, costs inflation and any other necessary factor. If there is any remainder from said funds, it shall be credited in the budget corresponding to the next fiscal year. On the other hand, in the event a sum greater than what is budgeted is spent, the same shall be included in the budget for the next fiscal year.

All expenses incurred to carry out the work entrusted by this Act to the Office of the Administrator of the State Insurance Fund and to the Industrial Commission, shall be charged to the State Insurance Fund. Provided, That the budget of the Office of the State Insurance Fund, after deducting the expenses for medical and hospital services, shall never exceed twenty-two percent (22%) of the total receipts from premiums during the previous fiscal year.

The resulting differences between the sums spent annually by the Industrial Commission and the Office of the Administrator of the State Insurance Fund Corporation, and the total amount that said bodies may dispose of for their budget by virtue of this section, with the exception of the remainders of medical expenses, shall be covered annually into a savings account that is separate and independent from its operating budget, which shall only be used for items of non-recurrent nature, in other words, expenses that shall not encumber future budgets.

Section 7. — Delay in Deciding Cases. (11 L.P.R.A. § 9)

In case the Manager of the State Fund delays for more than one month, without justified cause, the decision of a complete case submitted for its consideration, the workman or the employer, who are necessary parties to said case, or any interested party may complain to the Industrial Commission compelling the Manager to decide the case; and if it should be necessary, the Commission may also order the Manager to forward the record of the case to said Commission for the purpose of assuming jurisdiction therein and of deciding it; but before assuming jurisdiction in a case and deciding it, the Commission shall give the Manager a reasonable opportunity to close and decide said case.

In the exercise of its duties and powers, the Manager of the State Fund or any of its employees designated by him, as well as the Industrial Commission and the employees designated by it, are hereby authorized to summon witnesses, administer oaths, and take evidence, and in complying with these provisions they may issue subpoenas and compel the appearance of witnesses and the presentation of documentary and any other evidence. They may visit and inspect buildings, machinery, and other property where an accident has occurred; and may also utilize in their investigations the services of justices of the peace and District judges, prosecuting attorneys, marshals of First Instance and District courts, Police Force, and all agents of the Department of Labor and Human Resources and of the Department of the Treasury.

Section 8. — Depositions and Rogatory Letters. (11 L.P.R.A. § 10)

Upon written request of the Manager of the State Fund or of the Industrial Commission or of any commissioner thereof, together with interrogatories and cross-interrogatories, if any, filed with the secretary of any part of the First Instance or District Court, or of any justice of the peace, the pertinent judge shall issue the proper orders to take depositions of witnesses residing in the Commonwealth of Puerto Rico or abroad, or letters rogatory to courts of any State of the United States or of a foreign country, as in any other case pending before said magistrate; and

upon the return of said depositions or answers to letters rogatory, the same shall be opened by the secretary of the court or peace court issuing such depositions or letters rogatory, which secretary shall note on the back or at the foot thereof, the date when said deposition or answers to letters rogatory were received, and the same shall forthwith be sent to the Manager or to the Industrial Commission, as the case may be. The stipend of witnesses appearing before the Manager or before the Industrial Commission or a commissioner thereof, shall be six dollars (\$6) for room and board, in accordance with regulations approved for the purpose, and in addition, transportation expenses. The part of the First Instance or District Court or the peace court in whose jurisdiction the accident occurred may enforce the provisions of this section relating to compulsory appearance, taking of witnesses' oaths, and examination of books and documents.

Section 9. — Appeal from the Administrator's Decision. (11 L.P.R.A. § 11)

If the worker, or employee, or his/her beneficiaries are not satisfied with the decision rendered by the Administrator of the State Insurance Fund Corporation in their case, he/she may appeal before the Industrial Commission within a term of thirty (30) days after a copy of the decision of the Administrator has been served to them, and the case shall be referred to an Examining Official. In the cases of uninsured employers, the worker as well as the employer may appeal to the Industrial Commission once the employer is declared uninsured by the Administrator. The employer shall have thirty (30) days to appeal the decision of the Administrator.

Once an injured worker has filed an appeal involving a medical matter, he/she shall be examined at a medical hearing to determine whether the appellant requires additional medical treatment, to be examined by a specialist, or if the decision on disability requires revision. Said hearing shall be held jointly by physicians of the State Insurance Fund Corporation and the Industrial Commission, and by the physician the worker may see proper to bring, whose fees and travel expenses shall be compensated by the Industrial Commission in the manner set forth by regulation, under the charge and control of the physician representing the Commission. The appellant may be represented by an attorney.

The physicians in charge of the medical hearing shall render a report to the Commission regarding the medical evaluation and the steps taken regarding the condition, medical treatment of the appellant, and the decisions on disability, if any. The Commission shall issue the required decision, and shall notify the appellant. If the appellant is unsatisfied with the Commission's decision, he/she may request that a public hearing be held within a term of thirty (30) days. When the worker designates his/her own physician to assist him/her in the appeal, the fees and travel expenses of said physician shall be paid by the Industrial Commission as established by regulations.

The Chair shall designate a Corps of Examining Officials whose duty shall be to collaborate in the adjudication duties of the Commission by conducting investigations and presiding over public hearings of a quasi-judicial nature held at the Commission. They shall hold office in the career service within the Commission and have the authority to:

- (1) Take oaths and statements;
- (2) issue summonses, require the presentation of reports, books, papers and documents deemed necessary for the exercise of their functions;
- (3) receive pertinent evidence and to pass judgment thereon;
- (4) take depositions, or have them taken;

- (5) hold public hearings and regulate the course thereof;
- (6) hold and preside [at] preliminary conferences for the clarification and simplification of matters in dispute;
- (7) dispose of procedural processes or similar matters;
- (8) recommend decisions to the Industrial Commission, and
- (9) Carry out delegated authority adjudication functions; the work of these Examining Officials shall be valid with the signature of one Commissioner.

The Commission shall set forth by means of regulation the procedures that shall govern the holding of medical and public hearings, pursuant to the provisions set forth in Act No. 170 of August 12, 1988, as amended [3 L.P.R.A. §§ 2101 et seq.], as amended. The public hearings shall be public, except when the appellant has demonstrated the existence of irreparable damage, as set forth by regulation, for the holding of the same. Minutes shall be kept of all medical and public hearings held. The resolutions issued by the official examiners or the Commissioners shall contain a summary of all the evidence submitted, a statement on the burden of proof, issues of fact and conclusions of law that illustrate the law and the applicable case laws.

DECLARATION OF HEIRS

Section 10. — Proceedings for Tutorship and Declaration of Heirs. (11 L.P.R.A. § 13)

The Industrial Commission may take cognizance of the proceedings for tutorship in the case of minors and mentally disabled adults covered by this Act, exclusively as regards payment of the compensations awarded by the Manager.

In cases where it may be necessary to determine the heirs of a deceased workman or employee, the Manager shall give notice thereof to the Secretary of Justice so that before the proper part of the Court of First Instance of Puerto Rico and by the prosecuting attorney thereof, by any law clerk empowered to act as prosecuting attorney, or by any private attorney at the request of an interested party, all the proper steps may be taken until the declaration of heirs of the deceased workman or employee has been obtained in accordance with the provisions of law; Provided, That this kind of proceeding shall be prosecuted with all urgency by the court without the need of being included in the special docket; and Provided, further, That no costs or fees whatever shall be collected by the court or by its officials for the proceedings or the approval of such cases, or for the certificates issued for the use of the Manager or of the Commission. The officials in charge of the vital statistics and civil registers in each municipality shall issue gratis such certificates as may be necessary for the said purpose. In case it should be necessary for the purpose of awarding a compensation to the beneficiaries of the deceased workman or employee, that an action of filiation be instituted, the same procedure shall be followed as that hereinbefore expressed and without payment of fees of any kind.

Section 11. — Record and Report of all Accidents. (11 L.P.R.A. § 14)

Every employer shall keep a record of all injuries whether serious or slight, suffered by his/her workers or employees in the course of their employment or of such diseases as are covered under the Act. Within five days after an accident occurs, the employer shall file a written report with the Administrator of the State Insurance Fund Corporation in forms furnished by him/her. Said

report shall contain the title and the nature of the occupation of the worker or employee, the wages he/she earns, the location of the establishment, the name, age, gender and occupation of the injured worker or employee, the date and time of any accident that caused the injury, the nature and cause of the injury and any other information required.

Those employers who refuse or neglect to make the reports required by this section shall be sanctioned by the Court of First Instance, Superior Part, with a fine not to exceed five thousand dollars (\$5,000).

Every employer who intentionally or maliciously unduly reports to the Administrator of the State Insurance Fund Corporation a case concerning a work-related accident shall be liable for all expenses incurred because of said report. Every employer who reports as his/her an accident suffered by a worker or employee who works for an employer who, in violation of the law has not been insured, shall incur a misdemeanor and be sanctioned with a term of imprisonment not to exceed six (6) months or with a fine not to exceed five thousand dollars (\$5,000) or with both penalties at the discretion of the court. Expenses as well as fines shall be enforced on the property of the employer. Provided, That the court, at its discretion, may impose the penalty of community services in lieu of the penalty of imprisonment.

Section 12. — Hospital Records as Admissible Evidence. (11 L.P.R.A. § 15)

Copies of hospital records kept in accordance with law and certified by the persons in custody thereof to be true and complete, shall be admissible as evidence in proceedings before the Manager, the Supreme Court, the Industrial Commission, or any commissioner.

Section 13. — Uninsured Employers. (11 L.P.R.A. § 16)

In case of an accident to a workman or employee while working for an employer who, in violation of law, is not insured, the Manager of the State Insurance Fund shall determine the proper compensation plus the expenses in the case, and shall collect from the employer, to be covered into the Uninsured-Employer Cases Fund hereinafter created, such compensation and expenses, both of which shall constitute a lien on all the property of the employer; Provided, That said compensation and expenses are hereby declared to be liens preferred over any other charge or lien for taxes or for any other reason, with the exception of mortgage credits, crop loans, and property taxes on property encumbered for three years and the current annuity burdening the property of the employer upon its attachment to secure the said compensation and expenses; Provided, further, That the Industrial Commission shall grant both the employer and the workman or employee in the case an opportunity to be heard in their defense, following, as far as possible, the practice observed in the Court of First Instance; and Provided, also, That if after the parties have been summoned by such means as the Commission may adopt, they or either of them should fail to appear to be heard in their defense, it shall be understood that such party or parties waive their rights, and the Industrial Commission may decide the case in default, without further delay.

If any employer comprised in this Act should fail to insure the payment of compensation for work accidents pursuant to this Act, any injured worker or employee or their beneficiaries may act against said employer by filing a petition for compensation before the Industrial Commission, and may also file suit for damages against the employer, as if this Act were not applicable.

Provided, That at the time the suit for damages is filed, the injured worker or employee or their beneficiaries shall meet the requirement of sending a copy of the suit to the Administrator by certified mail. Once the case is filed, the court shall require evidence that the Administrator has been notified. If said requirement has not been met, the court shall grant the plaintiff fifteen (15) days to do so. If after this period such evidence has not been presented the suit shall be dismissed. Whenever the court determines that there is just cause for action after an examination of the complaint, which must be duly sworn, they shall be entitled in such suit, without giving bond, to attach the employer's property in the amount determined by the court to secure payment of the judgment handed down. The lawyers' fees which shall be fixed by the court shall be included in the attachment which shall be maintained until judgment has been rendered and the amount thereof has been paid. If, as a result of said suit for damages, judgment is handed down against the employer in excess of the compensation fixed hereunder the compensation fixed, if paid or secured by a collateral approved by the court, shall be deducted from the judgment.

In such proceedings, the fact that the workman or employee was guilty of contributory negligence; or that he assumed the risk of the injury; or that the injury was caused by the negligence of a contractor or independent subcontractor, unless such contractor or independent subcontractor is insured in accordance with the provisions of this Act, shall not constitute a defense for the employer.

No contract made between an employer and a workman or employee purporting to allow the use of any of these defenses shall be valid.

In those cases where the controversy is between the employer and the Manager, in connection with the insurance coverage (employer's status), if the employer refuses to accept liability for the accident, the case shall be taken by the Manager to the Industrial Commission, which shall decide the controversy following the procedure established by this Act; but if the employer accepts liability for the accident, the Manager shall, after the workman has received proper medical attendance, and has been discharged, proceed to liquidate the case, and shall collect from the employer the amount of the workman's compensation plus expenses incurred.

In those cases in which the employer is uninsured and the dispute is between the worker and the employer, the worker may appear before the Industrial Commission which shall attend to those cases urgently and preferentially and upon a statement of the worker setting forth the pertinent and necessary facts, the Industrial Commission shall refer the worker to the Administrator so that the latter may provide medical assistance and once the worker has been discharged, shall proceed to liquidate the case and collect from the employer the compensation and the expenses incurred as provided in this Act. In those cases whereby the worker is somehow disabled, the employer shall be given the opportunity to contradict the medical evidence, should he/she so wish, in which case the employer may appear before the Industrial Commission within the term fixed in Section 9 of this Act. Furthermore, the Administrator of the State Insurance Fund Corporation, in preparing the liquidation in these cases shall include therein a penalty equal to thirty percent (30%) of the total amount of the liquidation; Provided, That said penalty shall not be less than five hundred dollars (\$500). The total amount of said penalty shall be covered into the Fund for Uninsured Employer Cases.

Expenses for medical attendance, hospitalization, medicines, compensation and other expenses in the case of uninsured employers, shall be paid by the Manager chargeable to the Uninsured-Employer Cases Fund, pursuant to the provisions of Section 3 of this Act once the amount thereof chargeable, in like manner as in the insured cases, is determined and without waiting to

collect the compensation from the uninsured employer. Said fund shall be made up from a contribution equivalent to two thousand dollars (\$2,000) for each case of death in which compensation has not been allocated due to the absence of legal dependency; from the proceeds from all the fines and penalties for violations of this Act covered into the State Fund, plus the amount of the collections made as a result of the liquidation of cases of uninsured employers. Employers from whom is collected, according to law, the total amount of the premium levied upon them for the current year, and further, for the immediately preceding year, on the basis of a total computation of the salaries, wages and other remunerations paid to his employees, plus the amount of the liquidations of accident cases which occurred under their employ during any period of time for which they may have been declared uninsured employers, shall not be subject to the penalty prescribed in the foregoing paragraph.

The Manager of the State Insurance Fund is hereby authorized to transfer from the Reserve Fund to the Uninsured-Employer Cases Fund up to the amount of five hundred thousand dollars (\$500,000), which amount shall be devoted to cover the costs of cases which on the date of approval of this act may be pending collection; Provided, That the total amount of the collections hereinafter made in cases of uninsured employers, paid chargeable to the funds herein authorized to be transferred, shall be reimbursed to the Reserve Fund; and Provided, further, That there shall be maintained in the Uninsured-Employer Cases Fund, through transfer from the Reserve Fund when necessary, and subject to reimbursement, sufficient funds which at no time shall be less than fifty thousand dollars (\$50,000), for the prompt payment of future cases of uninsured employers.

The Manager of the State Insurance Fund or the person he may designate is hereby authorized to collect, by constraint proceeding as established in the Administrative Political Code of Puerto Rico, the liquidations of cases of uninsured employers, which shall include all expenses incurred.

In those cases in which it may be necessary to sell at public auction the employer's property which was attached, to insure recovery of the compensation, expenses, and the penalty that may be fixed in the case, the Manager of the State Insurance Fund shall, if no bidder attends, adjudicate the property object to the sale to the State Insurance Fund for the amount of the debt; Provided, That the employer may redeem the property within the term of one year from the date of the adjudication, subject to the payment of the compensation awarded, plus expenses and other additional charges; Provided, That in any case in which, prior to the taking effect of this act, the Commonwealth of Puerto Rico has adjudicated to itself any property attached to insure recovery of the compensation accruing to a workman or employee, or to his beneficiaries, according to the provisions of the Workmen's Accident Compensation Act, if said property is not being used by the Commonwealth of Puerto Rico, or has not been sold or transferred, such property shall be transferred by the Commonwealth of Puerto Rico to the State Insurance Fund, in payment of the debt, giving for such purposes the corresponding property ownership title, and the owners, successors or assignees must be notified immediately in person and/or by edicts, if their address or whereabouts are unknown, of the act and date of said transfer to the State Insurance Fund.

The owners, successors or assignees of the properties so transferred may redeem the said properties within the term of one year, reckoning from the date of the transfer to the State Insurance Fund, by paying to the latter the sum owed plus expenses and additional charges which the Commonwealth of Puerto Rico has incurred in the possession of the property.

The Manager may alienate, through sale in public auction, the properties acquired as provided above, once the term fixed for its redemption has elapsed. From the amount of the sale there shall be deducted the costs of the case and any balance thereof shall be refunded to the owner of the property, or to his successors or assignees.

The provisions of Section 3 of this Act shall be applicable to cases of uninsured employers.

In cases declared uninsured in which the accident is due to negligence of a third person, the uninsured employer who has paid to the State Insurance Fund the total amount of the liquidation of the case or who has secured payment by depositing a bond to the satisfaction of the Manager, may subrogate himself to the rights of the workman to recover the expenses incurred by him as a result of the accident. The workman or employee or his beneficiaries shall be parties to the proceeding brought in the cause of action they may have against a third person or against the uninsured employer, as the case may be, and any sum collected in excess of the sum paid to the State Insurance Fund by the uninsured employer to cover the liquidation of the case shall be paid to the injured person or to his beneficiaries in case of death, and no extra-judicial transaction shall be valid without their consent.

ACCIDENTS NOT INCLUDED

Section 14. — Accidents Not Included. (11 L.P.R.A. § 17)

In all cases of disease, injury, or death occurring to workmen or employees not subject to the provisions of this Act, the liability of said employer is and shall be the same as if this Act did not exist, regardless of any action which the prejudiced workman or employee may have in accordance with the provisions of Section 1802 of the Civil Code in force [31 L.P.R.A. § 5141], and the action shall be heard by the part of the Court of First Instance in which the accident occurred.

In such cases, nothing contained in this Act shall be construed in the sense of depriving the injured workman or employee, or his beneficiaries in case of death, of their right to claim and obtain damages from the employer, in accordance with the injuries suffered by said workman or employee.

In these actions for damages, and as if this Act were not applicable, the prejudiced workman or employee or his beneficiaries shall have the right, without filing a bond, to attach the property of the employer in the amount determined by the court to insure the satisfaction of such judgment as may be rendered, and such attachment shall include attorney's fees to be fixed by the court.

PENALTY FOR FAILURE TO INSURE

Section 15. — Penalty for Failure to Insure. (11 L.P.R.A. § 18)

Failure to insure the payment of the compensation as provided in Section 16 [11 L.P.R.A. § 19], shall constitute a misdemeanor to be sanctioned with a term of imprisonment of not more than six (6) months or with a fine of not more than five thousand dollars (\$5,000), or with both penalties at the discretion of the court. In case of recidivism both penalties shall be imposed and failure to post the written or printed notice stating the fact of being insured as also provided in Section 16 [11 L.P.R.A. § 19] shall constitute a misdemeanor and be sanctioned with a term of

imprisonment of not more than six (6) months or with a fine of not more than five thousand dollars (\$5,000) or with both penalties at the discretion of the court; Provided, That the complaint shall be filed by the Administrator of the State Insurance Fund Corporation, by his/her agents, or by any agent of the Department of Labor and Human Resources or of the Treasury, to whom the Administrator may delegate, or by any law enforcement officer, before the part of the Court of First Instance where the works of the employer have been conducted and in case the works of the employer extend to more than one judicial district, then before any of these.

COMPULSORY INSURANCE

Section 16. — Compulsory Insurance. (11 L.P.R.A. § 19)

Every employer included in the provisions of this Act shall be bound to insure his/her workers or employees in the State Insurance Fund concerning the compensation they may receive for injuries, illness or death, and shall post a clearly legible written or/and printed notice in a conspicuous place announcing the fact that he/she is insured. Provided, That when the employer gets his/her policy, the Corporation shall give him/her the "printed notice." Once the employer has made the quarterly payment, the Corporation shall give him/her a transparent sticker to be attached to the printed notice, indicating the year and quarter covered by the payment.

Section 17. — Employer to Report all Wages. (11 L.P.R.A. § 20)

Every insured employer shall, on reporting his annual payrolls, include in said payrolls the wages paid to all the workmen and employees working for or employed by him, whether by the job or under some person with whom the employer contracted for the job, or under a contractor or independent subcontractor employed or contracted by said employer; and all accounts or taxes collected by the State shall be based on the employer's current payroll in which shall be included the above-mentioned laborers; Provided, That this provision shall not be applicable to employers for who work is done by an independent contractor who is insured as an employer under the provisions of this Act.

EXCLUSIVENESS OF REMEDY PROVIDED IN THIS ACT

Section 18. — Exclusiveness of Remedy. (11 L.P.R.A. § 21)

When an employer insures his workmen or employees in accordance with this Act, the right herein established to obtain compensation shall be the only remedy against the employer, even in those cases where maximum compensations and benefits have been granted in accordance thereof; but in case of accident to, or disease or death of, the workmen or employees not entitled to compensation under this Act, the liability of the employer is, and shall continue to be, the same as if this Act did not exist.

ASSIGNMENT OF INSURANCE

Section 19. — Assignment of Insurance. (11 L.P.R.A. § 22)

If any employer, whether an individual, a firm, a partnership, an association, or a corporation, transfers the business during the period for which such employer is insured, to another employer, whether an individual, a firm, a partnership, an association, or a corporation, the Manager of the State Fund may, by means of written notice and with the consent of both the originally insured employer and the employer to whom the business is assigned, cede to his successor all the rights, credits, and obligations pertaining to the employer originally insured, and in such case the name of the assignee shall be substituted for the name of the originally insured employer in all accounts, records, and other matters pertaining to the former for the remainder of the term for which the first employer was insured.

AGREEMENT BETWEEN EMPLOYERS AND WORKERS, PROHIBITED

Section 20. — Agreement between Employers and Workers, Prohibited. (11 L.P.R.A. § 23)

No agreement made by an employee or a worker to pay any portion of the premiums paid by his/her employer shall be valid; and any employer who, for such a purpose makes a deduction from the wages or salary of any employee or worker entitled to the benefits of this Act, or who obtains from the employee or worker a receipt stating that said employee or worker received as full payment of his/her compensation a sum of money other than the one that was really paid, shall be guilty of a misdemeanor and upon conviction shall be subject to a penalty of imprisonment for a term not to exceed six (6) months or to a fine not to exceed five thousand dollars (\$5,000).

SCHEDULE OF CLASSIFICATIONS AND PREMIUM RATES

Section 21. — Schedule of Classifications and Premium Rates. (11 L.P.R.A. § 24)

Before June 1 of each year it shall be the duty of the Manager of the State Insurance Fund, in the exercise of the power and discretion hereby conferred upon him, to prepare a schedule of classifications according to the occupations or industries to which this Act refers. He shall also fix for each class of occupation or industry the lowest possible premium rates, including minimum rates, consistent with the establishment of a solvent state insurance fund and the creation of a reasonable surplus.

Before July 1, 1936, and annually thereafter, it shall be the duty of the Manager of the State Insurance Fund to revise such schedule of classifications prescribed in the preceding paragraph as, in his judgment, should be revised. Such revision shall be in accordance with the underwriting experience accumulated from the beginning of the effectiveness of this act and up to December 31 of the preceding year and such other incidental experience and the available statistics in regard to the hazards and underwriting risks in the classifications to be revised.

In connection with this annual revision of the schedule of classifications, it shall be the duty of the Manager of the State Insurance Fund to revise such premium rates, including minimum rates,

corresponding to the classifications in force as, in his judgment, should be revised. Such premium rates, including minimum premium rates for each class of occupation or industry, shall be the lowest possible rates consistent with good actuarial judgment and with the conservation of a solvent State Fund and the maintenance of a reasonable surplus, after taking into consideration the losses incurred through legitimate claims for injury and death, the payment of which he has authorized, chargeable to the State Insurance Fund, for the benefit of the injured, and of the beneficiaries of those deceased, and giving full consideration to the maintenance of adequate statutory claims and contingent reserves, as well as the costs of administration and all other expenses; and in order that said object may be attained, the Manager shall bear in mind the following requirements in classifying the occupations or industries, and in fixing the premium rates for the risks of same; Provided, That the insurance on coffee plantations and the coffee crop shall be included within the classification of general agricultural insurance.

(1) The Manager shall keep an accurate account of the money paid in for premiums by each of the several groups of occupations or industries, and the expenses of administering the State Fund, as well as the disbursements and expenses incurred on account of injuries or death of laborers and employees in each of said groups of occupations or industries, including the creation of a reserve to meet anticipated or unexpected losses until all claims mature; he shall also keep an account of the amount received from each individual employer, and of all the amounts disbursed for expenses of the State Insurance Fund; he shall keep an accurate account of payments and costs for injuries and death of the employees or workmen of each individual employer, and all other necessary actuarial accounts and other necessary statistics consistent with the efficient administration of a solvent state insurance fund; Provided, that the Manager shall be obliged to set aside regularly from all moneys received as premiums for the State Fund, as they are received, five percent (5%) of such receipts, for the creation and maintenance of a reserve fund until such reserve fund amounts to fifty thousand dollars (\$50,000). After the reserve fund has reached said sum, the Manager of the State Fund shall credit regularly to said reserve fund a sum which shall not exceed four percent (4%) nor be less than two percent (2%) of all moneys received as premiums for the State Fund, as they are received, until such reserve fund reaches one million dollars (\$1,000,000). When the reserve fund shall have accumulated the said sum of one million dollars(\$1,000,000), the Manager shall not credit to said reserve fund any part whatsoever of the moneys received as premiums. This fund shall be available to cover any deficit in the State Insurance Fund in any fiscal year and in case of catastrophes.

(2) The Manager of the State Insurance Fund may use, for grading the premium rates, such system as, in his judgment, has been the best calculated to fix individually, and in the most equitable manner, the value or the premium rate of each risk, and which is based on the experience derived from the accidents that occurred and appear in the files of each employer individually, and to encourage and stimulate the prevention of accidents; he shall formulate fixed and equitable rules controlling the same, which rules, however, shall conserve to each risk the basic principles of Workmen's Compensation Insurance.

Section 22. — Review of Rates. (11 L.P.R.A. § 25)

The decisions of the Manager, fixing and regulating the premium rates for each group of occupations or industries, and the rate classifications to govern each group or industry in particular, or any order increasing the premium rate for a certain employer, as provided in the

preceding section, may be reviewed by the Industrial Commission of Puerto Rico in the following manner:

(1) Any regular or permanent employer aggrieved may file with the Industrial Commission of Puerto Rico, within a period of thirty (30) days after the new rates are promulgated, or any eventual or temporary employer, within the thirty (30) days following the obtainment of his policy, a petition for review by said Industrial Commission of Puerto Rico of the decisions rendered by the Manager in regard to rates or premiums for one or more occupations or industries giving the reasons why said rates or premiums should be amended; and the Manager shall be required to appear and answer said petition within a period of fifteen (15) days. The Commission shall give preference to the case over all other cases on the calendar, and shall proceed to render a final decision in accordance with such rules as said Commission may have promulgated.

(2) The review referred to in subsection (1) of this section shall in no way suspend the collection of the premium or the effects of any other provision of this Act; nor shall the courts issue writs of injunction enjoining the collection of said premiums or taxes while the case is under review.

(3) In case the decision of the Commission is in the sense of reducing the rate or premium that the Manager has fixed for any class of occupation or industry, neither the Manager of the State Fund nor the Secretary of the Treasury shall in any case be ordered to return the excess paid in premiums or taxes, but such excess shall be deducted from the premiums or taxes to be collected in future from the employers filing the petitions.

(4) In case any classification is modified by an order or decree of the Commission, as herein provided, the Manager shall compute new rates, premiums, or taxes in the manner determined by the Commission for all such employers having workmen or employees within the classification or classifications objected to; Provided, That said rates, premiums, or taxes shall govern to the end of the fiscal year to which said classification or classifications pertained.

In order to carry out the provisions of this section, the Manager of the State Fund shall, prior to June 1 of each year, hold public hearings in different towns of the Commonwealth, giving notice thereof to all insured employers so that they may appear and make any allegations they wish in regard to their right in connection with such groupings of occupations or industries. This notice shall be published in two newspapers having the largest circulation in the Commonwealth.

The Manager of the State Insurance Fund is likewise authorized to collect individually from each employer in the same occupation or industry classification, the percentage of premiums which in his opinion is more reasonable granting a reduction in the basic rate of the classification or levying a surcharge on said basic rate, in accordance with the individual experience of the employer, determined according to the provisions of this Act, and the regulations which from time to time the Manager may adopt, which when promulgated by the Governor shall have the force of law; Provided, further, That the Manager shall notify each employer in advance of the levying of the premiums, the percentage of the rebate or surcharge corresponding to him for the policy year. It shall be the duty of the Manager to furnish any employer who so requests, all available information as to the factors which compose the individual experience and which served as a basis for the Manager in fixing the surcharge or rebate to be paid or received by the employer requesting the information. In case of non-conformity, the employer may appeal to the Industrial Commission within the thirty (30) days following the date on which he was informed of the levying of the surcharge or rebate.

Section 23. — Insurance Policies and Taxation and Collection of Premiums. (11 L.P.R.A. § 26)

Under no circumstances shall a policy be issued to cover only a part of the operations of an employer and leaving other activities uninsured. All of the operations of the employer shall be covered by one sole policy; Provided, That in case the employer, at the time of executing the policy, or of extending it, or of rendering his report on the wages paid, or of submitting his payroll return, fails to include part of his operations, thus preventing proper assessment for insurance purposes, the Manager, however, may at any time assess and levy, and collect from him, additional premiums on those operations which he has failed to include, in the same manner as if they had been insured. Policies shall be issued on the basis of the total payroll of the activities of the employer, as shown from his accounting books, payrolls, registers or other trustworthy documents. In case the employer is unable to produce accounting books, payrolls, registers, or other trustworthy documents, the total payroll shall, after the issuance of the policy or after the investigation of the employer, be computed on the basis of a reasonable estimate, according to the importance, nature, and volume of business of the employer. New operations not covered by the original policy shall be covered by notices subject to the approval of the Manager, or by extensions of policies.

The Manager of the State Insurance Fund is hereby authorized and empowered to assess and levy on every regular or permanent employer of workmen and employees affected by this Act, and he is hereby ordered to assess and levy, annual premiums determined in accordance with the preceding section, on the total amount of wages paid by said employer to workmen and employees who were or would have been entitled to the benefits of this Act during the year prior to the levying of the premiums; Provided, That said premiums shall be collected semi-annually in advance by the Manager of the State Insurance Fund; Provided, further, That the Manager shall proceed to collect by constraint proceeding as established in the Administrative Political Code of Puerto Rico the unpaid premiums within the term legally fixed by the Manager or any extension thereof. The Manager is likewise authorized and empowered to assess and levy on every eventual or temporary employer premiums for such time as his operations may last, which premiums shall be paid upon executing the proper policies and shall be divided into fiscal-year semesters, according to the estimated period during which the wages and salaries are to be paid; Provided, That the Manager may, in his discretion, divide the payment into semesters in advance. In the case of departments, boards, agencies, bureaus, commissions, and instrumentalities of the Commonwealth Government, the Manager, with the approval of the Secretary of the Treasury, may divide the payment on the basis of premiums due at the end of each month, which shall be paid with the salary payroll of said government organizations, without affecting their status as insured. The Secretary of the Treasury shall indicate the date and manner said payments shall begin to be made.

In case any employer covered by this Act fails to insure properly, the Manager may assess and levy on, and collect from him premiums for all such time as said employer may have remained uninsured, in the same manner as if he were insured.

After said premiums have been collected, they shall be covered into the Treasury of Puerto Rico, in the State Insurance Fund established by this Act.

The premiums for regular or permanent employers shall be levied as soon as the payroll return hereinafter referred to is received in the office of the Manager, the basis therefor, subject to

investigation and revision by the Manager, to be the total amount paid by the employer for wages, salaries, and other compensation paid to the laborers employed by him during the previous year and who were or would have been entitled to the benefits of this Act.

If any employer fails to make and submit the payroll return on the date fixed by law, or in accordance therewith, or if wilfully or otherwise makes a false or fraudulent return which, according to the experience obtained in connection with similar operations, is evidently inadequate, the Manager, through his duly authorized agents, shall make the return from his own knowledge and in accordance with the information and data he may have obtained. Any return submitted in this manner and subscribed by the Manager or any of his duly authorized agents, shall be prima facie valid and sufficient for all legal purposes.

Should a regular, eventual, or temporary employer fail to pay the total amount of the preliminary or additional premiums legally levied on him within the time fixed by the Manager, the latter may grant an extension of thirty (30) days so that the employer may make the payment in full, which full payment shall be an indispensable requirement for the Manager to make effective any insurance policy.

Any employer who, prior to July 1 or January 1 of any year, ceases to be subject to the provisions of this Act, may be excused from the payment of premiums for the following semester or semesters by filing the notice and proof required by the Manager of the State Fund that he will not be subject to the provisions hereof.

Any employer subject to the provisions of this Act during any part of a semester shall pay the premiums for the whole of said semester, but he shall be entitled to such reimbursements, if any, as are provided in the following Section ; *Provided*, That in such cases reimbursements may be made at the expiration of the semester for which said premiums were paid.

No employer shall be entitled to rebate upon the payment of his annual premiums, or to reimbursement, for any period of time for which, due to his failure to pay the full amount of the premiums within the term fixed, or for any other cause provided for in this Act or in the regulations lawfully promulgated hereunder, he was deprived of the immunities that this Act provides as to injuries, diseases or deaths suffered by the workmen or employees of such employer during the period covered by the payment of such premiums; *Provided*, That no coverage may be allowed to any employer for the second semester of a policy year if he has not previously paid the total assessment corresponding to the first semester.

In the event that any employer remits the payroll statement and/or the payment of the premiums assessed to the Administrator by certified mail, it shall be construed for all legal purposes that said payroll statement and/or payment of the assessed premiums has been presented or received at the Office of the Administrator on the date postmarked by the United States Postal Service on the envelope sent by certified mail by the employer in which said payroll statement and/or payment of the premiums assessed has been sent. Should the date postmarked by the Postal Service [not be] legible, then the date shall be that on which the payroll and/or payment is received at the offices of the State Insurance Fund Corporation.

Section 24. — Adjustment of Premiums. (11 L.P.R.A. § 27)

At the end of each fiscal year, the Manager shall compare the payroll of each employer paying premiums in accordance with this Act for such fiscal year, with the payroll of the preceding fiscal year on the basis of which the premiums were assessed, levied and collected; and if the

payroll for the year during which the insurance was effective is greater than that of the previous fiscal year for which said premiums were assessed, levied, and collected, the Manager shall assess and levy, and shall collect, on the difference, as provided in this Act, additional premiums in the same manner and on the same basis as the original premiums were assessed, levied, and collected; and if the payroll for the year during which the insurance was effective is less than that of the previous fiscal year for which the premiums were assessed, levied, and collected, the Manager of the State Insurance Fund shall refund or credit, without interest or discount, from the State Insurance Fund, the proportion of the premiums corresponding to the difference between the actual payroll for the year during which the insurance was effective, and the year for which said premiums were assessed, levied, and collected, if the Manager can verify to his full satisfaction that the wages, salaries and other remunerations declared by the employer in the statement or report hereinafter provided for have been correctly stated.

Section 25. — Annual Statement of Number of Employees of the Employer. (11 L.P.R.A. § 28)

It shall be the duty of every employer to file with the Administrator, not later than July 20 of each year, a statement showing the number of workers employed by said employer, the type of occupation or trade of said workers, and the total amount of wages paid to said workers for said trades during the preceding fiscal year; Provided, That at the request of the employer and for just cause, the Administrator may extend said term for a period of not more than 15 days. The premiums prescribed in Sections 23 and 24 [11 L.P.R.A. §§ 26 and 27] shall be computed according to the total amount of wages declared in said statement; Provided, That every employer employing workers covered by this Act for any term or any part of a semester shall file the aforesaid statement, showing the number of workers or employees employed, the type of occupation, and the estimated wages to be paid to said workers or employees, and on such sum the premiums to be paid by the employer shall be computed; and upon the termination of the work of said workers or employees, the employer shall file a statement like the one mentioned above, showing the total amount of wages paid, on which sum the corresponding liquidation shall be made; and if this payroll is greater than the previous one, the Administrator shall assess, levy, and collect, as provided in this Act, additional premiums on the difference, in the same manner as provided above.

Should an employer fail to submit said statements on the dates specified above, he/she shall incur a misdemeanor punishable by a fine not to exceed five thousand dollars (\$5,000) or by a term of imprisonment not to exceed six (6) months. In case of recidivism both penalties shall be imposed. The Court of First Instance, at the request of the Administrator of the State Insurance Fund Corporation, shall order the employer to submit the aforementioned statements within a peremptory term and if he/she fails to do so, disobedience of said order shall constitute contempt and shall be punished accordingly. Any employer who knowingly falsifies the information required in said statements shall be subject to the same penalties prescribed for failing to submit said statements.

Any employer who has been covered by the State Insurance Fund up to the end of the preceding fiscal year and is covered as of July 1 of the current year, shall also be covered from July 1 to July 20, the term granted by this Act to file the payroll or statement; Provided, That

every employer who has not filed the statement to which this section refers within the term fixed herein shall be deemed to be an uninsured employer.

The Administrator and those employees having direct and specific intervention in the assessment, collection, and investigation of premiums are expressly empowered to administer the oath required by this Act and shall exercise all the powers and rights conferred on the Internal Revenue Agents of the Department of the Treasury.

Any employer who considers he/she is not bound to comply with the requirements of this section shall state such a fact to the Administrator of the State Insurance Fund.

The insurance provided by the Commonwealth to all employers shall be in force immediately after their payroll or statement has been filed with the Office of the Administrator of the State Insurance Fund Corporation, together with the amount of the premium corresponding to the percentage of the wages declared in said statement, according to the rates fixed by the Administrator; Provided, That any accident that occurs before the verification of the payment of said premium, shall be deemed as a case of an uninsured employer, unless the employer verifies the payment within the term fixed by the Administrator of the State Insurance Fund Corporation, in which case the insurance shall become effective from the date on which the employer filed the payroll or statement in the office of the Administrator.

Upon receipt of the payment from an employer, the Administrator of the State Insurance Fund Corporation shall remit the receipt for such payment to said employer, which shall be prima facie evidence of said payment of the premiums and of said employer's compliance with the provisions of this Act. Until such payment is made, the employer shall not be entitled to the immunities provided by this Act with regard to such injuries, diseases, or deaths that may be suffered by the workers or employees of said employer during the period covered by the payment of such premiums.

Every statement of facts consigned in the statements required by this section, and every statement made by virtue of the provisions of this section for the purpose of having any employer relieved from fulfilling any requirements thereof, shall be deemed as made under oath. In the event that any employer remits the payroll statement and/or the payment of the premiums assessed to the Administrator by certified mail, it shall be construed for all legal purposes that said payroll statement and/or payment of premiums assessed was filed or received at the Office of the Administrator, on the date postmarked by the United States Postal Service, on the envelope sent by certified mail by the employer in which said payroll statement and/or payment of the premiums assessed has been sent. Should the date postmarked by the Postal Service not be legible, then the effective date shall be the date on which the payroll and/or payment is received at the offices of the State Insurance Fund Corporation.

REGISTER OF WORKERS AND EMPLOYEES

Section 26. — Register of Workers and Employees. (11 L.P.R.A. § 29)

It shall be the duty of any employer entitled to the benefits of this Act to keep a complete register showing the name of all such workers or employees, their age, gender, the nature of the work they perform and the wages paid to each. Should any employer fail to meet these requirements, he/she shall incur a misdemeanor and be sanctioned with a fine not to exceed five

thousand dollars (\$5,000). The penalty of rendering community services may be imposed or both penalties at the discretion of the court.

The Manager of the State Fund may order an examination to be made of all the payrolls and of the account books of such employers by any representative duly authorized by him, and it shall be the duty of every employer to permit said examination to be made.

Any employer who knowingly falsifies in his reports of workmen or employees, or in his payrolls, the information required by this section, or any additional information that may be required of him by regulations duly promulgated, shall be subject to the same penalty as that provided for failure to keep said registers or payrolls, and shall, in addition, be liable to the State Fund for three (3) times the difference between the premium paid and the amount that he should have paid had he stated correctly the information required, which sum shall be collected in the same manner as that provided for the collection of the corresponding premiums in accordance with this Act, and covered into the State Fund.

It shall not be necessary for the Manager of the State Fund to request the employers included under this Act to avail themselves of the benefits hereof, but it is the obligation of every employer of workmen or employees to perform such acts as may be necessary to comply, within the term fixed, with the obligation of insuring the compensation of the workmen employed by him, in accordance with the provisions of Section 18 [Renumbered as Section 16 (11 L.P.R.A. § 19)].

Section 27. — Public Policy on Investments. (11 L.P.R.A. § 30)

The Board shall adopt, within ninety (90) days following the date of its creation, the norms, criteria and procedures for the investment of the resources of the Corporation. For the adoption of such norms, criteria and procedures, the Board shall take into consideration the fiduciary nature of the functions of the Corporation attributable to its condition as insurer, its obligation to preserve the reserve funds so that they are available for suitable purposes, and the possibility of the Corporation being forced to liquidate investments in order to make special disbursements on account of benefits and to meet unexpected liquidity needs. The norms adopted thereof shall, in addition, establish the internal control systems that shall be observed for the execution of transactions related to the investment of the Corporation's funds; the criteria, requirements and conditions for the selection and contracting of the fund administrators and bank custodians that shall effect the investments authorized by this Act; and the evaluation of the investment transactions and objectives. The Board shall modify these norms from time to time, as required by market circumstances and the needs of the Corporation. The adoption of the norms, criteria and procedures for the investment of the Corporation's resources shall follow the guidelines specified in this Act.

Section 27-A. — Types of Authorized Investments. (11 L.P.R.A. § 30a)

The Corporation shall keep invested all available resources not required for its current operation and may invest in the following securities:

- (a) *Flat yield securities.* —
 - (1) *Money market instruments (short term).* —.

(A) Money market instruments issued by the Government of the United States, its agencies and instrumentalities and the Commonwealth of Puerto Rico, its agencies and instrumentalities. It includes federal Treasury Bills and bonds issued by either government within one year of maturity.

(B) Money market instruments issued by private institutions which are classified within the highest credit rating levels.

(b) *Capital market instruments (long term).* —

(A) Capital market instruments such as bonds, notes, promissory notes and any other long term maturity instruments which are a direct obligation of the National Treasury of the United States.

(B) Debt instruments of federal, state, and municipal agencies, instrumentalities and any other political subdivisions, classified within the highest credit rating levels which represent direct obligations or which are guaranteed by the good faith and credit of these government entities, instrumentalities, enterprises or public corporations and any other government agencies created pursuant to the laws of the Government of the United States and its states.

(C) Obligations of the Commonwealth of Puerto Rico, its instrumentalities and/or its public corporations.

(D) Debt instruments such as bonds, promissory notes and other long-term obligations, issued by institutions from the private sector, which fall within the highest credit rating levels.

(E) Bonds, promissory notes and obligations with a dollar or any other strong currency denomination issued and guaranteed by the central governments of foreign countries (Euro-Bonds) classified within the top two credit rating levels by a credit rating agency.

(F) Financial instruments directly or indirectly constituted upon financial obligations, such as mortgage loans and instruments with such loans as collateral classified within the highest credit rating levels.

The Board shall specify in its bylaws the maximum percentage of the total resources available for investment by the Corporation that may be invested in flat yield securities.

All investments that are not direct obligations of the Treasury of the United States shall be classified within the highest credit rating levels except when otherwise provided in this Act.

(b) *Stocks.* —

(1) The Corporation is hereby authorized to invest up to twenty-five percent (25%) of its total resources for the negotiation of common or preferred stock of any corporation created under the laws of any state of the United States, the federal government, the Government of the Commonwealth of Puerto Rico, and/or any foreign country, subject to the following criteria:

(A) The stock to be acquired shall be quoted openly in one or more financial markets or other national or international electronic quotation systems.

(B) Securities may be acquired through private placements, provided that the following criteria and other criteria deemed necessary by the Board are complied with:

(1) That according to the profit potential of the issuer said securities be undervalued.

- (2) That the total investment amount does not exceed the percentage of the total resources of the Fund, which is to be specified in the regulations of the Board.
 - (3) That the securities be issued by corporations registered in the N.Y. Stock Exchange or other recognized exchanges of the United States.
 - (4) That the statutes of the issuing corporation and its shareholders allow it.
- (C) The Board shall specify in its regulations the percentages and maximum and minimum values in dollars corresponding to the following criteria:
- (1) The proportion of its resources the corporation may invest in this type of securities.
 - (2) The minimum market value of an enterprise (in dollars) in which an investment may be made.
 - (3) The maximum percentage of authorized and outstanding stock of an enterprise that may be acquired by the Corporation.
 - (4) The maximum percentage of the funds to be invested in a financial sector.
- (c) *Real estate.* — The Corporation is hereby authorized to purchase, retain and receive real estate property in conveyance for the following and not for any other purposes:
- First* — Such as may be necessary to establish offices in order to conduct business, with permission to rent to others the remaining space in the same building, whether equipped or not.
- Second* — Such as may be conveyed for the payment of personal or property debts previously contracted in the course of its operations.
- Third* — Such as may be purchased or acquired in judiciary sales, by decree or mortgage, on behalf of the Corporation, or such as may be purchased or acquired in order to insure the amounts indebted.
- (d) *Financial instruments.* — The Board may authorize the Corporation, through regulations to that effect, to use financial instruments such as options, futures, futures contracts and transactions related to foreign currency exchange with the sole purpose of reducing risk.

Section 27-B. — Restrictions and Miscellaneous Authorizations. (11 L.P.R.A. § 30b)

- (a) Investments in foreign countries shall not exceed five percent (5%) of the total resources of the Corporation.
- (b) For the purpose of making the investments authorized in this Act, the Board shall contract any specialized professional services that may be necessary, including those of consultants and money managers for the Corporation.
- (c) Any investments made under the provisions of this Act shall be carried out cautiously, carefully and on the basis of the criteria which prudent, reasonable and experienced persons exercise in handling their own affairs, for investment and not speculative purposes, taking into consideration the balance that should exist between yield expectations and risk.

Section 27-C. — Authorization to Incur Debt. (11 L.P.R.A. § 30c)

The Board may authorize the Administrator to take out loans from any financial institution of the Government of the Commonwealth of Puerto Rico or the federal government of the United States of America, or through direct debt placements, solely to carry out the goals and purposes

of the Corporation, guaranteeing such a debt with its assets. The interest accrued on account of said obligations shall be exempt from the payment of income tax to the Commonwealth of Puerto Rico.

Section 27-D. — Depository. (11 L.P.R.A. § 30d)

All obligations of the Government of the United States or its states or subdivisions, or any other investments originated within the limits of the United States and Puerto Rico owned by the Corporation shall be placed under the custody of a special depository who provides the proper security and who is within the limits of the Continental United States and/or in Puerto Rico. Debt instruments issued and originated in Puerto Rico shall be kept under custody by the Administrator, with the understanding that all or any of said securities may be conveyed to the custodian agent of the Corporation in the Continental United States or in Puerto Rico, in case the Board determines that such a transfer is desirable or necessary. The designation of one or more custodian banks shall need the approval of the Board.

REVISION OF PREMIUMS AND REBATES

Section 28. — Revision of Premiums and Rebates. (11 L.P.R.A. § 31)

Not later than July 1 of each year, the Manager of the State Fund, giving consideration to the experience obtained in the administration of the law, shall principally revise the rates in force so as to make an equitable distribution of the losses among occupations and industries, and so that rebates in premiums shall approximate as nearly as possible to the experience of each particular group of occupations and industries; and to this end the Manager of the State Fund is empowered to prescribe rules relative to such rebates as may be granted to each employer in accordance with his risks, on the basis of the individual experience of the employer and the adjustment of each employer's rate, thus establishing a fair margin in excess of, or lower than, the rate taken as a basis for the classification of such employer, in order that this measure may tend to further the prevention of accidents and to preserve in each risk the basic principles of workmen's compensation insurance.

SUBROGATION OF RIGHTS

Section 29. — Third Party Liability; Subrogation. (11 L.P.R.A. § 32)

In case where the injury, the professional disease, or the death entitling the workman or employee or his beneficiaries to compensation in accordance with this Act has been caused under circumstances making a third party responsible for such injury, disease, or death, the injured workman or employee or his beneficiaries may claim and recover damages from the third party responsible for said injury, disease, or death, within one year following the date of the final decision of the case by the Manager of the State Insurance Fund, who may subrogate himself in the rights of the workman or employee or his beneficiaries to institute the same action in the following manner:

When an injured workman or employee, or his beneficiaries in the case of death, may be entitled to institute an action for damages against a third party in cases where the State Insurance Fund, in accordance with the terms of this Act, is obliged to compensate in any manner or to furnish treatment, the Manager of the State Insurance Fund shall subrogate himself in the rights of the workman or employee or of his beneficiaries, and may institute proceedings against such third party in the name of the injured workman or employee or his beneficiaries, within the ninety (90) days following the date of the final and enforceable decision of the case, and any sum which as a result of the action, or by virtue of a judicial or extrajudicial compromise, may be obtained in excess of the expenses incurred in the case shall be delivered to the injured workman or employee or to his beneficiaries entitled thereto. The workman or employee or his beneficiaries shall be parties in every proceeding instituted by the Manager under the provisions of this section, and it shall be the duty of the Manager to serve written notice on them of such proceedings within five (5) days after the action is instituted.

If the Manager should fail to institute action against the third person responsible as provided in the preceding paragraph, the workman or employee or his beneficiaries shall be fully at liberty to institute such action in their behalf, without being obliged to reimburse the State Insurance Fund for the expenses incurred in the case.

Neither the injured workman or employee nor his beneficiaries may institute any action, nor may compromise any cause of action they may have against the third party responsible for the damages until after the expiration of ninety days from the date of the final and enforceable decision of the case by the Manager of the State Insurance Fund.

No compromise between the injured workman or employee, or his beneficiaries in case of death, and the third party responsible within the ninety (90) days subsequent to the date in which the decision is final and enforceable, or after the expiration of said term if the Manager has filed his complaint, shall be valid or effective in law unless the expenses incurred by the State Insurance Fund in the case are first paid. No judgment shall be entered in suits of this nature, and no compromise whatsoever as to the rights of the parties to said suits shall be approved, without making express reserve of the right of the State Insurance Fund to reimbursement of all expenses incurred; Provided, That the secretary of the part taking cognizance of any claim of the nature above described shall notify the Manager of the State Insurance Fund of any order entered by the court which affects the rights of the parties to the case, as well as the final disposition thereof.

The Manager of the State Insurance Fund may compromise as to his rights against a third party responsible for the damages; it being understood, however, that no extrajudicial compromise shall affect the rights of the workman or employee, or of his beneficiaries, without their express consent and approval.

Any sum obtained by the Manager of the State Insurance Fund through the means provided in this section shall be covered into the State Insurance Fund for the benefit of the particular group into which the occupation was classified or the industry in which the injured or dead workman or employee was employed.

CESSION OF RIGHTS PROHIBITED

Section 30. — Cession of Rights, Prohibited. (11 L.P.R.A. § 33)

The rights and actions arising from this Act cannot be negotiated, transferred, or assigned; nor shall they be the object of attachment or claims of third persons, and no judge shall authorize any order for such purposes.

Notwithstanding the provision of the preceding paragraph, the Manager of the State Insurance Fund shall deduct for reimbursement, from any benefits to which an injured worker or employee is entitled hereunder, the payments made to him under any other government insurance program. This deduction shall be made upon presentation by the Director of the Government Agency, Bureau or Office of a certified invoice containing the liquidation of the disability benefit payments made to a worker or employee chargeable to the funds of the government insurance program under his administration. This deduction shall never be made for an amount exceeding the balance of the benefits to which the injured worker or employee is entitled hereunder at the time the State Insurance Fund makes the liquidation or payment of said invoice.

FINES COVERED INTO THE STATE INSURANCE FUND

Section 31. — Fines, and Penalties, Interest and Surcharges shall be covered into the State Insurance Fund. (11 L.P.R.A. § 34)

All fines collected on account of the infractions of any of the provisions of this Act shall be covered into the accounts of the State Insurance Fund Corporation.

Likewise, said corporation is hereby empowered to impose interest, penalties and surcharges to those employers who fail to comply with the processes involving the imposition, assessment and collection of premiums and the cases of uninsured employers, by which they are required to strictly comply with the provisions of law, according to the regulations promulgated to that effect by said corporation.

PENDING LITIGATION UNAFFECTED

Section 32. — Pending Litigation. (11 L.P.R.A. § 35)

The provisions of this Act shall in no way affect pending litigations or claims relative to workmen's compensation under previous laws. The procedure followed in such litigations or claims, until their termination, shall be in accordance with the laws in force on the date of the accident, and the workmen shall be entitled to such sum of money as may be prescribed by said laws.

ATTORNEYS OR AGENTS

Section 33. — Attorneys or Agents. (11 L.P.R.A. § 36)

For the prosecution, liquidation, or decision of their cases before the Manager of the State Fund or before the Industrial Commission, workmen or employees do not require the services of attorneys, but if they decide to obtain the services of one for the better direction and defense of their cases, the Industrial Commission shall fix the percentage which should be paid to the attorney in prosecuting a claim in favor of the employee or workman or his heirs or beneficiaries, in accordance with the provisions of this Act.

In such cases the Industrial Commission shall fix, chargeable to the State Insurance Fund, the percentage that should belong to the attorney as fees. Expenses incurred by the State Insurance Fund by virtue of this provision shall be paid from the insurance premiums, but they shall not be taken into consideration for purposes of the Merit Rating System. In cases of employers uninsured in violation of law, said expenses shall be charged to the uninsured employer, when the workman wins the case. Under no circumstances shall the appearance of agents or other persons be allowed in any case of claim before the Industrial Commission unless it is a case of a minor or incapacitated person, in which case the person representing the minor or incapacitated person cannot collect any sum or receive any remuneration of any kind for representing or assisting the interested person in his claim for compensation.

In cases that are the object of review before the courts and in mandamus cases authorized by this Act and in which the services of an attorney are utilized, the court before which the case is tried shall fix the fees which the attorney should equitably receive. In cases of employers uninsured in violation of law, the expenses shall be charged to the uninsured employer, when the workman wins the case.

The fees fixed by the Industrial Commission or the court shall be the only fees that the attorney shall receive for his services.

Section 34. — Industrial Commission and Fund Employees' Non-interest in Claims. (11 L.P.R.A. § 37)

No member of the Industrial Commission nor any officer, employee, or agent in the service of the Industrial Commission or of the Manager of the State Fund shall represent any person or be in any way interested in any action, claim, or matter within the competency of the Manager of the State Fund or of the Industrial Commission. Violation of this section shall be punished by removal or permanent disqualification to serve in any dependency of the workmen's compensation service; it being understood that this prohibition shall not include purely official acts done by virtue of the office or position held.

Section 35. — Information shall be Confidential; Closing Cases. (11 L.P.R.A. § 38)

Information acquired by virtue of the provisions of this Act by the Industrial Commission, by the Manager of the State Insurance Fund, or by any officer or employee to whom the performance of some duty under this Act has been entrusted, shall be considered as of a private nature when so resolved by the Industrial Commission or the Manager of the State Insurance

Fund; and any officer or employee who discloses such information, except by order of a competent authority, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than five hundred dollars (\$500) or to imprisonment in jail for not more than six (6) months.

Nothing in this section shall be construed as prohibiting the inspection by the interested party or by his attorney, of the reports and all other documents connected with his case.

The Industrial Commission of Puerto Rico is hereby empowered and authorized to destroy, periodically, all such records of appeals as may have been definitively closed for five (5) or more years by final resolution of the Industrial Commission; Provided, That if a case is set for public hearing and the interested party or parties should fail to appear on account of their not having been located, the Industrial Commission shall issue a summons through an edict once a week during two consecutive weeks, which edict shall be published in one of the newspapers of largest circulation in the Commonwealth, and if, notwithstanding such summons, the said party or parties should fail to appear within a term of sixty (60) days, the Industrial Commission is hereby empowered and authorized to close such case definitively and proceed to destroy same in due time, as provided by this Act.

In observance of the provisions of other laws concerning document conservation and preservation, it shall be understood that for all legal purposes all cases involving work-related accidents or occupational disease shall be closed after three (3) years as of the definitive closing date of the same.

Those injuries or conditions whose ill effects may become evident after a longer term has elapsed may be excepted from the above provision as mentioned in subsection 1A of Section 3 [11 L.P.R.A. § 3(a)(1)].

Section 36. — Definitions. (11 L.P.R.A. § 39)

Special equipment. — Shall be understood to mean orthopedic supports, crutches, walkers, canes, wheelchairs, position beds and any other equipment that facilitates the functioning of the totally and permanently disabled employee so that he/she can tend to his/her daily needs.

Administrator or Insurer. — Wherever this Act says "Administrator" or "Insurer", it shall be understood that it is the Administrator of the State Insurance Fund Corporation.

Credit rating agencies. — Are those entities recognized in Puerto Rico, the United States and at the international level, in order to establish credit quality regarding those securities to be issued in the market.

Risk capital. — Is the capital investment in high risk newly formed or budding corporations which have a high growth potential.

Casual or accidental nature. — That which constitutes an accidental or casual job shall be determined by the Industrial Commission through regulations approved by the Governor, taking into consideration the type of job performed, the cost for the employer, the duration period of said job, and most of all, its relationship with the business or industry of the employer of the employee who suffers the accident.

Commission. — Wherever the word "Commission" is used in this Act, it shall be understood that it refers to the Industrial Commission.

Corporation. — Wherever the word "Corporation" is used in this Act, it shall be understood that it is the State Insurance Fund Corporation.

Worker or employee. — Shall be understood to mean any person in the service of any individual, partnership or corporation regularly employing workers covered under the provisions of this Act, including the owner of an individual business or trade working on a full-time basis in said business or trade whose gross income does not exceed one million dollars (\$1,000,000) a year.

The word "*employee*" includes every worker employed for some form of compensation in any establishment or manufacturing, business or agricultural occupation by any natural or juridical person and by the Commonwealth Government or any of its dependencies, pursuant to the purposes of this Act.

Highest credit rating levels. — Shall be the top four (4) categories awarded by the credit rating agencies when rating securities as to their credit quality.

State Insurance Fund. — Wherever the term "State Insurance Fund" is used, it shall be understood to mean the State Insurance Fund Corporation.

Futures. — Are contracts awarded in established markets which specify a future delivery date or the receipt of a defined amount of a tangible or intangible product of a specific nature.

Debt instruments. — Indicates securities with a maturity in excess of one year, such as bonds, promissory notes, instruments guaranteed by mortgages and others comparable in terms of investment assets.

Money market instruments. — Indicates negotiable securities with a maturity of less than one year, such as trade bills, certificates of deposit, bank acceptances, among others.

Board. — Is the Board of Directors of the State Insurance Fund Corporation.

[Refusal of] or opposition to treatment. — As provided in Section 5 of this Act [11 L.P.R.A. § 6], shall be any voluntary act by the injured party which may harm, hinder, prolong or impede his/her treatment or which may worsen, or risk worsening his/her condition, including in this definition any disorderly conduct incurred by the injured party which as a result may disturb the peace of a health facility for the treatment of injured employees; any immoral act committed during the period of hospitalization which renders undesirable the permanence of such a patient in such a health institution; and evident drunkenness of the worker during hospitalization when it is contraindicated in the established treatment or when it somehow contributes to prolong such treatment, or when such drunkenness is accompanied by acts harmful to the discipline of the institution, or is evidently bothersome to other hospitalized patients.

Options. — Are rights to purchase or sell a fixed amount of a specific financial instrument at a price defined by a determined time limit.

ADVANCE APPROPRIATION BY GOVERNMENT

Section 37. — Advance Appropriation by Government. (11 L.P.R.A. § 40)

The sum of one hundred thousand dollars (\$100,000), or such part thereof as may be necessary, is hereby appropriated out of any funds in the Treasury of Puerto Rico not otherwise appropriated, in order to carry out the provisions of this Act; and such sum, together with all other sums collected for premiums from the employers insured in the State Fund, shall constitute the State Fund.

From the income received annually for premiums and from other sources, the Secretary of the Treasury is authorized to reimburse to the Commonwealth Treasury, chargeable to the State

Fund, the sum of ten thousand dollars (\$10,000) every year until the sum of one hundred thousand dollars (\$100,000) hereby appropriated for the State Fund has been reimbursed to the Treasury; Provided, That on July 1, 1935, or as soon as this act becomes effective, the Secretary of the Treasury shall place at the disposal of the Manager of the State Fund the sum appropriated by this section, or such part thereof as may be necessary.

TRANSITORY MEASURES

Section 38. — [Transitory Measures] (11 L.P.R.A. § 41 note)

The Industrial commission is hereby granted sufficient authority and power to determine the amount of the debts of the Workmen's Compensation Trust Fund from August 13, 1928, to that date on which, according to the date of the approval of this Act, Act No. 85, of May 14, 1928, as subsequently amended on April 25, 1929; April 25, 1930; April 28, 1930, and May 5, 1931, shall be in force.

As the Industrial Commission determines the amount of the premiums owed to the workmen's compensation Trust Fund between August 13, 1928, and that date on which, according to the date on which this Act is approved, Act No. 85, of May 14, 1928, as subsequently amended on April 25, 1929; April 25, 1930; April 28, 1930, and May 5, 1931. is in full force, notice thereof shall be given to the Treasurer of Puerto Rico who shall be bound to collect said premiums by way of attachment in the same manner as that provided by law for the collection of property taxes, when it may be necessary.

Section 39. — [Transitory Measures] (11 L.P.R.A. § 41 note)

The money collected from the source mentioned in the preceding section shall be covered into the Workmen's Compensation Trust Fund for the period included between August 13, 1928, and that date on which, as provided in this Act, Act No. 5, of May 14, 1928, as subsequently amended, is in force, to answer for all claims that may be pending when this Act goes into effect; *Provided*, That the Treasurer of Puerto Rico shall make such deposits immediately after this Act becomes effective.

Section 40. — [Transitory Measures] (11 L.P.R.A. § 41 note)

The Industrial Commission created by this Act is granted sufficient authority and power to investigate, decide compromise, and liquidate all claims that may be presented against the Workmen's Compensation Trust for accidents or other expenses incurred during the Period already mentioned and to direct the Treasurer of Puerto Rico to pay said claims chargeable to the fund referred to in Section 41 of this Act. It shall likewise order, with the approval of the Auditor, the payment of all expenses that may be incurred during the time that the investigation, liquidation, and decision of these claims lasts, chargeable to the said Workmen's Compensation Trust Fund.

Section 41. — [Transitory Measures] (11 L.P.R.A. § 41 note)

Every claim against the Workmen's Compensation Trust Fund for the period included between August 13, 1928, and the date on which this Act takes effect, which has not prescribed on this latter date, shall be filed with the Industrial Commission not later than December 31, 1935; Provided, That every claim presented after December 31, 1935, for the period herein mentioned, shall be considered prescribed.

It shall be the duty of the Industrial Commission to make this provision of law public by means of notices published in the newspapers having the largest circulation in the Island of Puerto Rico, once a week for thirty (30) days after this Act takes effect, and once a week during the month of November, 1935 ; Provided, That such notices shall also be posted in the police stations, in city halls, and in the offices of the collectors of internal revenue, in all the towns of the Island.

Section 42. — [Transitory Measures] (11 L.P.R.A. § 41 note)

The administration expenses incurred by the Industrial Commission, from and after the date on which this Act becomes effective, in the performance of the special duties assigned to it by this Act, in regard to investigating, deciding, compromising, liquidating, and paying the claims pending from August 13, 1928, up to the date on which this Act takes effect, may be charged, with the approval of the Governor of Puerto Rico, to the Workmen's Compensation Trust Fund belonging to the same period, whether this fund is the product of quotas or premiums received through payments of employers to said fund, through appropriations made by the Legislature, or from any source from which such receipts are derived ; Provided, That such expenses shall not exceed ten (10) per cent of the total amount of the sums collected by the Treasurer in this liquidation.

Section 43. — [Transitory Measures] (11 L.P.R.A. § 41 note)

All the claims pending under Act No. 85, of May 14, 1928, as subsequently amended on April 25, 1929; April 25, 1930; April 28, 1930, and May 5, 1931, for which the insurance companies which were then authorized to insure workmen in Puerto Rico or the employers who had been authorized to be their own insurers should answer, shall be decided, liquidated, or paid., in accordance with law and with the intervention and approval of the Industrial Commission.

Section 44. — Savings Provision Covering Industrial Commission. (11 L.P.R.A. § 41)

Nothing herein prescribed shall be construed as restricting the powers of the Industrial Commission hereby created, as successor to, and liquidator of, the extinguished Industrial Commission, to continue the liquidation of the actions and claims as well as the obligations of the extinguished Liquidating Board of the Workmen's Relief Commission.

Section 45. — [Transitory Measures] (11 L.P.R.A. § 41 note)

It is hereby provided that all the supplies, furniture, and official documents belonging to the Workmen's Compensation Bureau that functions as a dependency of the Department of Finance

and all the supplies, furniture, and documents of the offices of the Superintendent of Insurance corresponding to the workmen's compensation service shall pass, on inventory, to the Manager of the State Fund.

Section 46. — [Expert Assistance] (11 L.P.R.A. § 42)

The Manager of the State Insurance Fund is hereby authorized to utilize, chargeable to the budgetary authorizations, the services of actuaries of recognized ability to advise him in the revision and fixing of premium rates and in the general operation of the workmen's compensation system; and likewise to use the services of engineers specialized in accident prevention and such additional personnel as may be necessary to the planning and execution of a program aimed at preventing and reducing industrial accidents.

Section 47. — [Separability] (11 L.P.R.A. § 1 note)

If any clause, paragraph, section, article, or part of this Act is declared unconstitutional by a court of competent jurisdiction, said judgment shall not affect, prejudice, or invalidate the rest of this Act, but its effects shall be limited to the clause, paragraph, section, article, or part of this Act so declared unconstitutional.

Section 48. — All laws or parts of laws in conflict herewith are hereby repealed.

Section 49. — Act No. 85, approved May 14, 1928, as subsequently amended, is hereby expressly repealed, with the exception of the provisions in Sections 40 to 47 [renumbered as Sections 38 to 45], both inclusive, of this Act, in regard to the decision and liquidation of cases pending under said Act.

Section 50. — [Effectiveness] (11 L.P.R.A. § 1 note)

It is hereby declared that an emergency exists requiring that this Act take effect July 1, 1935, and it shall, therefore, be effective from that date, except the provision in regard to the appointment of the Manager, which, as a greater emergency exists, shall take effect immediately.

Note. This compilation was prepared by the Puerto Rico OMB staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text. Compiled by the Office of Management and Budget Library.