

[CHAPTER 227]

AN ACT

To amend the Railroad Unemployment Insurance Act, approved June 25, 1938.

June 20, 1939
[H. R. 5474]
[Public, No. 141]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second paragraph of subsection (d) of section 1 of the Railroad Unemployment Insurance Act, approved June 25, 1938 (52 Stat. 1094), is hereby amended by inserting "(e)" at the beginning thereof, and by changing the period at the end thereof to a colon and adding the following: "*Provided further,* That an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside the United States to an employer who is required under the laws applicable in the place where the service is rendered to employ therein, in whole or in part, citizens or residents thereof."

Railroad Unemployment Insurance Act, amendments.
52 Stat. 1094.
45 U. S. C., Supp. IV, ch. 11.

Exclusion of certain service rendered outside United States.

SEC. 2. Subsection (e) of section 1 of said Act is hereby amended by striking out "(e)" at the beginning thereof and substituting "(f)" therefor.

Textual changes.

SEC. 3. Subsection (f) of section 1 of said Act is hereby stricken out.

Subsection stricken out.

SEC. 4. Subsection (h) of section 1 of said Act is hereby amended to read as follows:

"(h) The term 'half-month' means such period of any fifteen consecutive days as the Board may by regulation prescribe."

"Half-month" defined.

SEC. 5. Subsection (i) of section 1 of said Act is hereby amended by striking out the comma following the word "money".

"Compensation."

SEC. 6. Subsection (k) of section 1 of said Act is hereby amended to read as follows:

"(k) Subject to the provisions of section 4 of this Act, a day of unemployment, with respect to any employee, means a calendar day on which he is able to work and is available for work and with respect to which (i) no remuneration is payable to him, and (ii) he has, in accordance with such regulations as the Board may prescribe, registered at an employment office: *Provided, however,* That, with respect to any employee whose normal work shift includes a part of each of two consecutive calendar days, the term 'calendar day', as heretofore used in this subsection, shall mean such equivalent period of twenty-four hours as the Board may by regulation prescribe."

A day of unemployment, definition.
Post, p. 846.

Proviso.
Where normal shift includes parts of two consecutive calendar days.

SEC. 7. The first paragraph of subsection (a) of section 2 of said Act is hereby amended to read as follows:

"SEC. 2. (a) A qualified employee shall be paid benefits for each day of unemployment in excess of seven during any half-month which begins after June 30, 1939."

52 Stat. 1096.
45 U. S. C., Supp. IV, § 352 (a).
Qualified employees.

SEC. 8. Subsection (d) of section 2 of said Act is hereby stricken out.

Subsection stricken out.

SEC. 9. Subsections (e), (f), and (g) of section 2 of said Act are hereby amended by striking out the designations "(e)", "(f)", and "(g)" and substituting therefor "(d)", "(e)", and "(f)", respectively; and said subsection (g) is further amended by striking out from the last sentence thereof the words "subsections (a) and", and substituting therefor the word "subsection".

Textual changes.

SEC. 10. Subsection (b) of section 3 of said Act is hereby amended by striking out the words "fifteen consecutive days of unemployment, or two half-months", by inserting in place thereof the words "one half-month", and by striking out the words "each of".

Waiting period.
52 Stat. 1097.
45 U. S. C., Supp. IV, § 353.

Disqualifying conditions.
52 Stat. 1098.
45 U. S. C., Supp. IV, § 354.
Leaving work voluntarily without good cause.

Failing to accept suitable work without good cause.

Unemployment due to strike in violation of law.

44 Stat. 577.
45 U. S. C. ch. 8; Supp. IV, ch. 8.

False or fraudulent statements.

Receipt of benefits under designated Acts.

49 Stat. 967; 50 Stat. 307.
45 U. S. C., Supp. IV, ch. 9.
49 Stat. 622.
42 U. S. C., Supp. IV, §§ 401-410a.

Persons paid on mileage basis; limitations.

Strike, etc., disqualification, exceptions.

Nonparticipants, etc.

Proviso.
Payment of dues not deemed financing strike.

Employees not belonging to designated class, any of whom participate, etc., in dispute.

Proviso.
Enterprise conducting separate types of work.

SEC. 11. Section 4 of said Act is hereby amended to read as follows:
"SEC. 4. (a) There shall not be considered as a day of unemployment, with respect to any employee—

"(i) any of the thirty days beginning with the day with respect to which the Board finds that he left work voluntarily without good cause;

"(ii) any of the thirty days beginning with the day with respect to which the Board finds that he failed, without good cause, to accept suitable work available on such day and offered to him;

"(iii) subject to the provisions of subsection (b) of this section, any day with respect to which the Board finds that his unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed, and the Board finds that such strike was commenced in violation of the provisions of the Railway Labor Act or in violation of the established rules and practices of a bona fide labor organization of which he was a member;

"(iv) any of the seventy-five days beginning with the first day of any half-month with respect to which the Board finds that he knowingly made or aided in making or caused to be made any false or fraudulent statement or claim for the purpose of causing benefits to be paid;

"(v) any day in any period with respect to which the Board finds that he is receiving, has received, or has a right to receive compensation or other wages in lieu of notice, annuity payments or pensions under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937, or old-age benefits under title II of the Social Security Act or payments for similar purposes under any other Act of Congress; or he is receiving or has received unemployment benefits under an unemployment-compensation law of any State or of the United States other than this Act;

"(vi) any day in any half-month with respect to which the Board finds that, pursuant to a contract of employment providing for the determination of his compensation, wholly or partially, on a mileage basis, he earned at least the equivalent of eight times the schedule daily rate of compensation for the service in which he was last employed during that half-month.

"(b) The disqualification provided in section 4 (a) (iii) of this Act shall not apply if the Board finds that—

"(i) the employee is not participating in or financing or directly interested in the strike which causes the stoppage of work: *Provided*, That payment of regular union dues shall not be construed to constitute financing a strike or direct interest in a strike within the meaning of this and the following paragraphs; and

"(ii) he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed in the establishment, premises, or enterprise at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute: *Provided*, That if separate types of work are commonly conducted in separate departments of a single enterprise, each such department shall, for the purposes of this subsection, be deemed to be a separate establishment, enterprise, or other premises.

“(c) No work shall be deemed suitable for the purposes of section 4 (a) (ii) of this Act, and benefits shall not be denied under this Act to any otherwise qualified employee for refusing to accept work if—

Unsuitable work.

“(i) the position offered is vacant due directly to a strike, lockout, or other labor dispute;

Position offered is vacant due to labor dispute.

“(ii) the remuneration, hours, or other conditions of work offered are substantially less favorable to the employee than those prevailing for similar work in the locality, or the rate of remuneration is less than the union wage rate, if any, for similar work in the locality;

Unfavorable labor conditions.

“(iii) as a condition of being employed he would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

Labor union membership.

“(iv) acceptance of the work would require him to engage in activities in violation of law or which, by reason of their being in violation of reasonable requirements of the constitution, bylaws, or similar regulations of a bona fide labor organization of which he is a member, would subject him to expulsion from such labor organization; or

Acceptance would involve law violation.

“(v) acceptance of the work would subject him to loss of substantial seniority rights under any collective bargaining agreement between a railway labor organization, organized in accordance with the provisions of the Railway Labor Act, and any other employer.

Loss of substantial seniority rights.

“(d) In determining, within the limitations of section 4 (c) of this Act, whether or not any work is suitable for an employee for the purposes of section 4 (a) (ii) of this Act, the Board shall consider, in addition to such other factors as it deems relevant, (i) the current practices recognized by management and labor with respect to such work; (ii) the degree of risk involved to such employee's health, safety, and morals; (iii) his physical fitness and prior training; (iv) his experience and prior earnings; (v) his length of unemployment and prospects for securing work in his customary occupation; and (vi) the distance of the available work from his residence and from his most recent work.

Additional factors in determining suitable work.

Current recognized practices.

Degree of risk involved.
Fitness, prior earnings, etc.
Length of unemployment, etc.
Distance of available work.

Voluntarily leaving unsuitable work.

“(e) For the purposes of section 4 (a) (i) of this Act, no voluntary leaving of work shall be deemed to have been without good cause if the Board finds that such work would not have been suitable for the purposes of section 4 (a) (ii) of this Act.”

Monthly compensation returns.
52 Stat. 1101.
45 U. S. C., Supp. IV, § 356.

SEC. 12. Section 6 of said Act is hereby amended to read as follows:

“SEC. 6. Employers shall file with the Board, in such manner and at such times as the Board by regulations may prescribe, returns under oath of monthly compensation of employees, and, if the Board shall so require, shall distribute to employees annual statements of compensation prepared by the Board: *Provided*, That no returns shall be required of employers which would duplicate information contained in similar returns required under any other Act of Congress administered by the Board. Any such return shall be conclusive as to the amount of compensation earned by an employee during the period covered by the return, and the fact that no return was made of the compensation claimed to be earned by an employee during a particular period shall be taken as conclusive that no compensation was earned by such employee during that period, unless the error in the amount of compensation returned in the one case, or failure to make return of the compensation in the other case, is called to the attention of the Board within eighteen months after the date on which the last return covering any portion of the calendar year which includes such period is required to have been made.”

Proviso.
Duplicate information.

Conclusiveness.

52 Stat. 1104.
45 U. S. C., Supp.
IV, § 360 (a).
Textual change.
Advances to credit
of fund.
52 Stat. 1105.
45 U. S. C., Supp.
IV, § 361 (b).

Availability of
moneys credited to
fund.
52 Stat. 1105.
45 U. S. C., Supp.
IV, § 361 (c).

Eligibility under
State law.
52 Stat. 1108.
45 U. S. C., Supp.
IV, § 362 (g).

Certification not to
be withheld if State
authorizes transfer.
52 Stat. 1111.
45 U. S. C., Supp.
IV, § 363 (c).

Withholding of
grants to noncoop-
erating States.
52 Stat. 1112.
45 U. S. C., Supp.
IV, § 363.

52 Stat. 1113.
45 U. S. C., Supp.
IV, § 365.
Waiting period, days
of unemployment,
etc., provisions modi-
fied.

52 Stat. 1096.
45 U. S. C., Supp.
IV, § 351 (n).
"Benefit year" de-
fined.

52 Stat. 1096.
45 U. S. C., Supp.
IV, § 352.
Benefits accrued but
not yet paid at death.

50 Stat. 312, 311.
45 U. S. C., Supp.
IV, §§ 228c, 228c.

Provisions of
amended Act not af-
fected by Internal
Revenue Code.
53 Stat., pt. 1.

SEC. 13. Subsection (a) of section 10 of said Act is hereby amended by striking out "2 (g)" and substituting "2 (f)" therefor.

SEC. 14. The second paragraph of subsection (b) of section 11 of said Act is hereby amended by striking out the comma after the words "of administering this Act" and by striking out the words "including personal services in the District of" and substituting therefor a period and the words "Such advance shall be repaid from the fund at".

SEC. 15. Subsection (c) of section 11 of said Act is hereby amended by striking out the period after the words "administering this Act" and by striking out the words "Such advance shall be repaid from the fund at" and substituting therefor a comma and the words "including personal services in the District of".

SEC. 16. Subsection (g) of section 12 of said Act is hereby amended by inserting after the word "eligible" a comma and the words "with respect to unemployment after June 30, 1939," and by striking out the words "after June 30, 1939".

SEC. 17. Subsection (d) of section 13 of said Act is hereby amended by striking out the word "unemployment-compensation" before the word "account" in the first paragraph of said section, and substituting therefor the words "unemployment insurance", and by striking out the word "compensation" before the word "account" in the second paragraph of said section and substituting therefor the word "insurance".

SEC. 18. Subsection (c) of section 303 of the Social Security Act as added by subsection (g) of section 13 of said Railroad Unemployment Insurance Act is hereby amended by striking out the word "employment" and substituting therefor the word "unemployment".

SEC. 19. Section 15 of said Act is hereby amended to read as follows:

"SEC. 15. The restrictions in the second sentence of section 3 (b) and in section 4 (a) (v) of this Act, insofar as they involve the receipt of unemployment benefits under an unemployment compensation law of any State, shall not be applicable to any day of unemployment which occurs after June 15, 1939, but before July 1, 1939."

SEC. 20. Subsection (n) of section 1 of said Act is hereby amended to read as follows:

"(n) The term 'benefit year', with respect to any employee, means the twelve-months period which begins with the first day of the first half-month containing days of unemployment for which benefits are payable to him, and thereafter the twelve-months period which begins with the first day of the first half-month, after the termination of his last preceding benefit year, containing days of unemployment for which benefits are payable to him."

SEC. 21. Section 2 of said Act is hereby further amended by adding thereto the following subsections:

"(g) Benefits accrued to an individual but not yet paid at death shall, upon certification by the Board, be paid, without necessity of filing further claims therefor, to the same individual or individuals to whom any death benefit that may be payable under the provisions of section 5 of the Railroad Retirement Act of 1937 or any accrued annuities under section 3 (f) of the Railroad Retirement Act of 1937 are paid; and in the event that no death benefit or accrued annuity is so paid, such benefits accrued under this Act shall be paid as though this subsection had not been enacted."

SEC. 22. The provisions of the Railroad Unemployment Insurance Act, as herein amended, shall be in full force and effect notwithstanding the enactment of the Internal Revenue Code.

Approved, June 20, 1939.