

43 U. S. C. § 372 *et seq.*; Supp. II, § 385a *et seq.*

58 Stat. 890.
33 U. S. C. § 709.
Consultation with local interests.

authorized for construction by the Bureau of Reclamation, all in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). After the transfer as provided herein, the dam shall be operated for flood control in accordance with criteria established by the Secretary of the Army as provided for in section 7 of the Flood Control Act of 1944 (Public Law 534, Seventy-eighth Congress, second session).

SEC. 3. In locating and designing the works authorized for construction by section 2 of this Act the Secretary of the Army and the Chief of Engineers, the Secretary of the Interior and the Commissioner of Reclamation shall give due consideration to the report set forth in Bulletin Numbered 26 of the Division of Water Resources of the Department of Public Works of the State of California, and shall consult the local interests to be affected by the construction and operation of said works, through public hearings or in such other manner as in their discretion may be found best suited to a maximum expression of the views of such local interests.

Coordination, etc., of works.

SEC. 4. The Secretary of the Interior is directed to cause the operation of said works to be coordinated and integrated with the operation of existing and future features of the Central Valley project in such manner as will effectuate the fullest and most economic utilization of the land and water resources of the Central Valley project of California for the widest possible public benefit.

Appropriation authorized.

SEC. 5. There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as are necessary to carry out the purposes of this Act.

Approved October 14, 1949.

[CHAPTER 691]

AN ACT

October 14, 1949

[H. R. 3191]

[Public Law 357]

To amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes.

Federal Employees' Compensation Act Amendments of 1949.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees' Compensation Act Amendments of 1949".

TITLE I—SUBSTANTIVE AMENDMENTS

WAITING PERIOD MODIFIED

SEC. 101. (a) Section 2 of the Act approved September 7, 1916 (ch. 458, 39 Stat. 742) (hereafter in this Act referred to as the "Federal Employees' Compensation Act"), as amended (5 U. S. C., 1946 edition, sec. 752), is hereby amended to read as follows:

39 Stat. 743.

"SEC. 2. That with respect to the first three days of temporary disability the employee shall not be entitled to compensation except as provided in section 9, unless such disability exceeds twenty-one days in duration or is followed by permanent disability."

39 Stat. 743.
5 U. S. C. § 759.
Post, p. 862.
39 Stat. 743.

(b) Section 8 of such Act (5 U. S. C., 1946 edition, section 758), is amended to read as follows:

Use of leave.

"SEC. 8. If at the time the disability begins the employee has annual or sick leave to his credit he may use such leave until it is exhausted, in which case his compensation for disability shall not begin, and the time periods specified in section 2 shall not begin to run, until the annual or sick leave has ceased."

Supra.

BASIC BENEFIT FOR TOTAL DISABILITY

SEC. 102. Section 3 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 753), is hereby amended to read as follows:

39 Stat. 743.

"SEC. 3. (a) Except as otherwise provided in this Act, if the disability is total the United States shall pay to the disabled employee during such disability a monthly monetary compensation equal to 66 $\frac{2}{3}$ per centum of his monthly pay, which shall be known as his basic compensation for total disability.

"(b) Loss, or loss of use, of both hands, or both arms, or both feet, or both legs, or both eyes or the sight thereof, shall, prima facie, constitute permanent total disability."

BASIC BENEFIT FOR PARTIAL DISABILITY

SEC. 103. (a) Section 4 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 754), is further amended to read as follows:

39 Stat. 743.

"SEC. 4. (a) (1) Except as otherwise provided in this Act, if the disability is partial the United States shall pay to the disabled employee during such disability a monthly monetary compensation equal to 66 $\frac{2}{3}$ per centum of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of such partial disability, which shall be known as his basic compensation for partial disability.

"(2) The Administrator may require a partially disabled employee to make an affidavit or other report, in such manner and at such times as the Administrator may specify as to his earnings, whether from employment or self-employment. In such affidavit or other report the employee shall include the value of housing, board, lodging, and other advantages which are part of his remuneration for employment or are earnings in self-employment and which can be estimated in money. If such individual, when required, fails to make such affidavit or other report, or if in such affidavit or report the employee knowingly omits or understates any part of such earnings or remuneration, he shall forfeit his right to compensation with respect to any period for which such report was required to be made, and such compensation, if already paid, shall be recovered by deducting the amount thereof from the compensation payable to him or otherwise recovered in accordance with section 38, unless such recovery is waived pursuant to such section.

Affidavit or report.

Forfeiture of compensation right.

Pub. p. 864.

Refusal to seek work, etc.

"(b) If a partially disabled employee refuses to seek suitable work or refuses or neglects to work after suitable work is offered to, procured by, or secured for him, he shall not be entitled to any compensation."

(b) Section 39 of such Act (5 U. S. C., 1946 edition, sec. 789), is amended by inserting, after "affidavit" the words "or report".

39 Stat. 749.

SCHEDULED DISABILITIES

SEC. 104. Section 5 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 755), is amended to read as follows:

39 Stat. 743.

"SEC. 5. (a) In any case of permanent disability which involves solely the loss, or loss of use, of a member or function of the body, or involves disfigurement, as provided in the following schedule, basic compensation for such disability shall, in addition to compensation for any temporary total or temporary partial disability, be payable to the disabled employee for the period specified in such schedule at the rate

Compensation in lieu of disability compensation.

of 66 $\frac{2}{3}$ per centum of his monthly pay and shall, except as otherwise provided in subsection (b) and in cases involving disfigurement, be in lieu of compensation for such permanent disability under the preceding sections of this Act:

- “(1) Arm lost, three hundred and twelve weeks’ compensation.
- “(2) Leg lost, two hundred and eighty-eight weeks’ compensation.
- “(3) Hand lost, two hundred and forty-four weeks’ compensation.
- “(4) Foot lost, two hundred and five weeks’ compensation.
- “(5) Eye lost, one hundred and sixty weeks’ compensation.
- “(6) Thumb lost, seventy-five weeks’ compensation.
- “(7) First finger lost, forty-six weeks’ compensation.
- “(8) Great toe lost, thirty-eight weeks’ compensation.
- “(9) Second finger lost, thirty weeks’ compensation.
- “(10) Third finger lost, twenty-five weeks’ compensation.
- “(11) Toe other than great toe lost, sixteen weeks’ compensation.
- “(12) Fourth finger lost, fifteen weeks’ compensation.
- “(13) Loss of hearing: (A) Complete loss of hearing of one ear, fifty-two weeks’ compensation; (B) complete loss of hearing of both ears, two hundred weeks’ compensation.
- “(14) Binocular vision or percentage of vision: Compensation for loss of binocular vision or for 80 per centum or more of the vision of an eye shall be the same as for the loss of the eye.
- “(15) Phalanges: Compensation for loss of more than one phalanx of a digit shall be the same as for loss of the entire digit. Compensation for loss of the first phalanx shall be one-half of the compensation for loss of the entire digit.
- “(16) Amputated arm or leg: If, in the case of an arm or a leg, the member is amputated above the wrist or ankle, compensation shall be the same as for the loss of the arm or leg, respectively.
- “(17) Two or more digits: Compensation for loss, or loss of use, of two or more digits, or one or more phalanges of each of two or more digits, of a hand or foot, shall be proportioned to the loss of use of the hand or foot occasioned thereby.
- “(18) Total loss of use: Compensation for permanent total loss of use of a member shall be the same as for loss of the member.
- “(19) Partial loss or partial loss of use: Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member. The degree of loss of vision or hearing under this schedule shall be determined without regard to correction.
- “(20) In any case in which there shall be a loss or loss of use, of more than one member or parts of more than one member as enumerated herein, the award of compensation shall be for the loss, or loss of use, of each such member or part thereof, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, subparagraph (17) of this schedule shall apply, and that where partial bilateral loss of hearing is involved, compensation shall be computed upon the loss as affecting both ears.
- “(21) Disfigurement: Proper and equitable compensation not to exceed \$3,500 shall, in addition to any other compensation payable under this schedule, be awarded for serious disfigurement of the face, head, or neck, if of a character likely to handicap a person in securing or maintaining employment.

“(b) Notwithstanding the provisions of subsection (a) of this section and the provisions of sections 3 and 4, if the injury causes the

total and permanent loss, or loss of use, of an arm, hand, leg, foot, or eye (including loss of binocular vision), or total and permanent loss of hearing of both ears, whether or not the disability also involves other impairments of the body, the individual's basic compensation for such disability, in addition to compensation for periods of temporary total or temporary partial disability, shall be 66 $\frac{2}{3}$ per centum of his monthly pay for the period specified for such loss, or loss of use, in the schedule to subsection (a) of this section (including paragraphs (16) and (20) thereof), and with respect to any subsequent period shall be as provided in section 3 if the disability is total or as provided in subsection (a) of section 4 if the disability is partial.

Ante, p. 856.

Ante, p. 856.

Ante, p. 856.

Period of compensation.

Ante, p. 856.

“(c) The period of compensation payable under the schedule to subsection (a) of this section on account of any injury shall be reduced by the period of compensation paid or payable under such schedule on account of a prior injury if compensation in both cases is for disability of the same member or function, or different parts of the same member or function, or for disfigurement, and the Administrator finds that compensation payable on account of the subsequent disability in whole or in part would duplicate the compensation payable on account of the preexisting disability. In such cases, for the purposes of disabilities specified in subsection (b), compensation for disability continuing after the scheduled period shall commence upon expiration of such period as reduced under this subsection.

Ante, p. 856.

“(d) (1) If an individual who has sustained disability compensable under subsection (a) (including any disability compensable under the schedule to subsection (a) by virtue of subsection (b)), and who has filed a valid claim in his lifetime, dies, from causes other than the injury, before the expiration of the compensable period specified in such schedule, the compensation specified in such schedule and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in such schedule, to and for the benefit of the persons then in being within the classes and in the proportions and upon the conditions specified in this subsection and in the order named:

Death from other causes.

Ante, pp. 856, 856.

“(A) to the widow (as defined in section 10 (H)) or wholly dependent widower (as specified in section 10 (B)), if there is no child (as so defined) under the age of eighteen or incapable of self-support; or

39 Stat. 745, 744.
5 U. S. C. § 760 (H).

(B).
Post, p. 856.

“(B) if there are both such a widow or widower and such a child or children, one-half to such widow or widower and the other half to such child or children; or

“(C) if there is no such widow or widower but such a child or children, then to such child or children; or

“(D) if there is no survivor in the above classes, then to the parent or parents wholly or partly dependent for support upon the decedent, or to other wholly or partly dependent relatives listed in section 10 (F), or to both, in such proportions as may be provided by regulation; or

39 Stat. 744.
5 U. S. C. § 760 (F).

“(E) if there is no survivor in any of the above classes, and no burial allowance is payable under section 11, then such amount, not exceeding the amount which would be expendable under section 11 if such section were applicable, shall be paid to reimburse any person or persons, equitably entitled thereto, to the extent and in the proportions that they shall have paid the expenses of burial of such disabled individual, but no compensated insurer or other person obligated by law or contract to pay such expenses, and no State or political subdivision or entity, shall be deemed so equitably entitled.

39 Stat. 745.
5 U. S. C. § 761.
Post, p. 860.

"(2) Except for the amount of such compensation payable with respect to any period preceding the disabled individual's death, the payments to be made under paragraph (1) shall be at the basic rate of compensation for permanent disability specified in subsection (a) of this section, even if at the time of such death the decedent was entitled to the augmented rate specified in section 6 (a).

"(3) (A) The right of any surviving beneficiary listed in paragraph (1) to any payment pursuant to this subsection, except a beneficiary under clause (E) thereof, shall be conditioned upon his being alive to receive such payment and no such beneficiary shall have a vested right to any such payment.

"(B) The entitlement of any beneficiary to payments under clauses (A) to (D) of paragraph (1) shall cease upon the happening of any event which would terminate the right of such beneficiary to compensation for death under section 10. Upon the cessation of the entitlement of any beneficiary under such clauses (A) to (D), the compensation remaining unpaid under paragraph (1) which would have been payable to him had such entitlement continued shall be payable to the surviving beneficiary or beneficiaries, if any, within the same class or, if there are none, then to the beneficiary or beneficiaries next entitled to priority under such paragraph."

ELIMINATION OF MAXIMUM AND INCREASE OF MINIMUM BENEFIT
AMOUNT—DEPENDENTS' BENEFITS, AND SO FORTH

SEC. 105. Section 6 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 756), is further amended to read as follows:

"Sec. 6. (a) (1) While the disabled employee has one or more dependents, his basic compensation for disability payable under section 3 or section 5 (a) (including compensation payable under the schedule to section 5 (a) by virtue of section 5 (b)) shall be augmented at the rate of 8 $\frac{1}{3}$ per centum of his monthly pay, and his basic compensation for disability payable under section 4 (a) shall be augmented at the rate of 8 $\frac{1}{3}$ per centum of the difference between his monthly pay and his monthly wage-earning capacity: *Provided*, That for any period of temporary total disability the augmentation of his basic compensation for disability payable under section 3 shall be limited to that part of his monthly pay which is not in excess of \$420.

"(2) As used in this subsection, the term 'dependent' shall mean any of the following:

"(A) A wife, if (i) she is a member of the same household as the employee or is receiving regular contributions from him toward her support, or (ii) he has been ordered by any court to contribute to her support.

"(B) A husband, if wholly dependent by reason of his own physical or mental disability upon the employee for support.

"(C) An unmarried child (as defined in section 10 (H)), while such child (i) is under eighteen years of age or, if over eighteen, is incapable of self-support by reason of mental or physical disability, and (ii) is living with the employee or receiving regular contributions toward his support from the employee.

"(D) A parent (as defined in section 10 (H)), while wholly dependent upon and supported by the employee.

"(b) (1) In addition to the monthly compensation otherwise specified in this Act, the Administrator may pay an injured employee, who has been awarded compensation, an additional sum of not more than \$75 a month, as the Administrator may deem necessary, when the Administrator shall find that the service of an attendant is necessary constantly to be used by reason of the employee's being totally blind,

Infra.

39 Stat., 744.
5 U. S. C. § 760.
Post, p. 859.

39 Stat. 743.

Ante, p. 855.

Ante, p. 855.

Limitation.

Ante, p. 855.

"Dependent."

39 Stat. 745.
5 U. S. C. § 760 (H).

39 Stat. 745.
5 U. S. C. § 760 (H).

Additional compensation.

or having lost both hands or both feet or the use thereof, or being paralyzed and unable to walk, or by reason of other disability resulting from the injury actually rendering him so helpless as to require constant attendance.

“(2) The Administrator may pay to any disabled individual who is undergoing vocational rehabilitation pursuant to the Administrator's direction under section 9 (b) additional compensation necessary for his maintenance, but not to exceed \$50 per month.

“(c) Except as otherwise authorized under section 42, the monthly rate of compensation for disability, including any augmented compensation payable by reason of subsection (a) but not including any sum payable by reason of subsection (b), shall not be more than \$525 per month and in cases of total disability shall not be less than \$112.50 per month, unless the employee's monthly pay is less in which case his monthly rate of compensation for total disability shall be equal to his full monthly pay.

“(d) (1) In the case of any person who at the time of the injury was a minor or employed in a learner's capacity and who, prior to the injury, was not physically or mentally handicapped, the Administrator shall, on any review under section 37 after the time when the wage-earning capacity of such person would probably, but for the injury, have increased, prospectively recompute the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to such probable increased wage-earning capacity. The Administrator may, on any review under section 37 after a disabled employee has attained the age of seventy years and the wage-earning capacity of the disabled employee would probably, aside from and independently of the effects of the injury, have decreased on account of old age, prospectively recompute the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to such probable decreased wage-earning capacity.

“(2) If a disabled individual, without good cause, fails to apply for and undergo vocational rehabilitation when so directed pursuant to section 9 (b), and the Administrator, upon review under section 37, finds that in the absence of such failure the individual's wage-earning capacity would probably have substantially increased, the Administrator may prospectively reduce the individual's monetary compensation in accordance with what would probably have been his wage-earning capacity in the absence of such failure, until the individual in good faith complies with the Administrator's direction.”

INCREASE IN DEATH BENEFITS, AND SO FORTH

SEC. 106. (a) Section 10 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 760), is further amended by striking out “66 $\frac{2}{3}$ ” wherever it occurs and inserting in lieu thereof “75”; by striking out “35” in clauses (A) and (B) and inserting in lieu thereof “45”; by striking out in clause (C) the words “the compensation payable under clause (A) or clause (B)” and inserting in lieu thereof “40 per centum”; by striking out “10” in clauses (C) and (D) and inserting in lieu thereof “15”; and by striking out “25” in clause (D) and inserting in lieu thereof “35”.

(b) Clause (K) of such section, as amended, is further amended to read as follows:

“(K) In computing compensation under this section the monthly pay shall be considered not to be less than \$150, but the total monthly compensation shall not exceed the monthly pay computed as provided in section 12 or the sum of \$525.”

(c) Clause (B) of such section, as so amended, is further amended to read as follows:

Payment for vocational rehabilitation.

Post, p. 862.

Monthly rate.
39 Stat. 760.
5 U. S. C. § 793.

Recomputation of compensation for minors, learners, etc.

39 Stat. 749.
5 U. S. C. § 787.

Failure to undergo vocational rehabilitation.

Post, p. 862.

39 Stat. 749.
5 U. S. C. § 787.

39 Stat. 744.
5 U. S. C. § 760 (A)-(D).

39 Stat. 745.
5 U. S. C. § 760 (K).

Monthly pay.

Post, p. 862.

39 Stat. 744.
5 U. S. C. § 760 (B).
Supra.

“(B) To the widower, if there is no child, 45 per centum if wholly dependent for support, by reason of his physical or mental disability, upon the deceased employee at the time of her death. This compensation shall be paid until his death or marriage or until he becomes capable of self-support.”

(d) Such section, as so amended, is further amended by striking out the second sentence of clause (C), the last sentence of clause (D), and the last sentence of clause (G).

(e) Clause (L) of such section, as so amended, is amended to read as follows:

“(L) If any person entitled to compensation under this section or section 5 or 6, whose compensation by the terms of this or of such other section ceases or is to be reduced upon his marriage or upon the marriage of his dependent, accepts after such marriage any payments or compensation to which he is not entitled, he shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.”

LIBERALIZATION OF BURIAL PAYMENTS

39 Stat. 745.

Sec. 107. Section 11 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 761), is further amended to read as follows:

“Sec. 11. If death results from the injury the United States shall pay, to the personal representative of the deceased employee or otherwise, funeral and burial expenses not to exceed \$400, in the discretion of the Administrator. In the case of an employee whose home is within the United States, if his death results from the injury while he is away from his home or official station or is outside of the United States, or if his death results from other causes while he is away from his home or official station for the purpose of receiving medical or other services, appliances, or supplies under section 9 or examination under section 21, and if so desired by his relatives, the body shall, in the discretion of the Administrator, be embalmed and transported in a hermetically sealed casket to the home or last place of residence of the employee at the expense of the employees' compensation fund. If, in such cases, request for return of the body is not made by the decedent's relatives, the Administrator may provide for the disposition of the remains and incur, and cause payment from the employees' compensation fund of, such necessary transportation, funeral, and burial expenses as under the circumstances shall be reasonable.”

39 Stat. 743.
5 U. S. C. § 759.
Post, p. 862.
39 Stat. 747.
5 U. S. C. § 771.

EXTENSION OF COVERAGE, AND SO FORTH

39 Stat. 760.

Sec. 108. (a) Section 40 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 790), is further amended, by designating the paragraphs thereof, following the introductory phrase, as paragraphs “(a)”, “(b)”, “(c)”, “(d)”, “(e)”, “(f)”, “(g)”, and “(h)”, respectively.

(b) Paragraph (b) of such section, as so designated, defining the term “employee”, is further amended to read as follows:

“Employee.”

“(b) The term ‘employee’ includes (1) all civil officers and employees of all branches of the Government of the United States (including officers and employees of instrumentalities of the United States wholly owned by the United States); (2) commissioned officers of the Regular Corps of the Public Health Service; (3) officers in the Reserve of the Public Health Service on active duty; (4) persons rendering personal services of a kind similar to those of civilian officers or employees of the United States to any department, independent establishment,

or agency thereof (including instrumentalities of the United States wholly owned by it), without compensation or for nominal compensation, in any case in which acceptance or use of such services is authorized by an Act of Congress or in which provision is made by law for payment of the travel or other expenses of such person; and (5) persons, other than independent contractors and their employees, employed on the Menominee Indian Reservation in the State of Wisconsin, subsequent to September 7, 1916, in operations conducted pursuant to the Act entitled 'An Act to authorize the cutting of timber, the manufacture and sale of lumber, and the preservation of the forests on the Menominee Indian Reservation in the State of Wisconsin', approved March 28, 1908, as amended, or any other Act relating to tribal timber and logging operations on the Menominee Reservation."

35 Stat. 51.

(c) Paragraph (c) of such section, as so designated, defining the term "commission", is further amended by inserting "former" after the words "to the" and by striking out the words "provided for in section 28".

Post, p. 864.

(d) Paragraph (f) of such section, as so designated, defining the term "monthly pay", is further amended by inserting, immediately before the period, the following: "except when otherwise determined under section 6 (d) with respect to any period".

Ante, p. 859.

(e) Such section is further amended by adding thereto a new paragraph "(i)" reading as follows:

"(i) The term 'Administrator' means the Federal Security Administrator."

"Administrator."

INCREASE OF COMPUTATION BASE WHERE INJURY OCCURRED BEFORE JULY 1, 1946

SEC. 109. Notwithstanding any other provision of this Act or of the Federal Employees' Compensation Act, the monthly pay upon the basis of which compensation for disability or death is computed under the Federal Employees' Compensation Act, as amended, shall, effective on the first day of the first calendar month following enactment of this Act, be increased by 40 per centum if the injury (or injury causing death) occurred before May 1, 1943, in the cases of persons employed in the postal service whose compensation was affected by the Act of April 9, 1943 (57 Stat. 59), or before January 1, 1941, in all other cases, or by 10 per centum if the injury (or injury causing death) occurred on or after such date but before July 1, 1946, except that such increase shall in no event exceed \$50. This section shall apply to any case of death caused by such an injury, regardless of whether such death occurs or occurred before or after the enactment of this Act.

39 U. S. C. §§ 835,
836 note.

Applicability.

TITLE II—TECHNICAL AMENDMENTS

EXCLUSIVENESS OF REMEDY

SEC. 201. Section 7 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 757), is further amended by inserting the designation "(a)" immediately before the first sentence thereof and by adding to such section a new subsection reading as follows:

39 Stat. 743.

"(b) The liability of the United States or any of its instrumentalities under this Act or any extension thereof with respect to the injury or death of an employee shall be exclusive, and in place, of all other liability of the United States or such instrumentality to the employee, his legal representative, spouse, dependents, next of kin, and anyone otherwise entitled to recover damages from the United States or such

Liability of U. S.

instrumentality, on account of such injury or death, in any direct judicial proceedings in a civil action or in admiralty, or by proceedings, whether administrative or judicial, under any other workmen's compensation law or under any Federal tort liability statute: *Provided, however*, That this subsection shall not apply to a master or a member of the crew of any vessel."

Nonapplicability.

39 Stat. 743.

SEC. 202. (a) Section 9 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 759), is amended by inserting before the first sentence thereof the designation "(a)" and by adding at the end of such section a new subsection reading as follows:

Vocational rehabilitation.

"(b) The Administrator may direct any permanently disabled individual whose disability is compensable under this Act to undergo vocational rehabilitation and shall make provision for furnishing vocational rehabilitation services in such cases. In providing for such services, the Administrator shall, insofar as practicable, utilize the services or facilities of State agencies (or corresponding agencies in Territories or possessions) cooperating with him in carrying out the purposes of the Vocational Rehabilitation Act, as amended, except to the extent that the Administrator provides for furnishing such services under subsection (a) of this section. The cost of providing such services to individuals undergoing vocational rehabilitation pursuant to such direction shall be paid from the employees' compensation fund, except that in reimbursing any State agency (or corresponding agency of a Territory or possession) under any arrangement pursuant to this subsection there shall be excluded any cost to such agency reimbursable in full under section 3 (a) (4) of the Vocational Rehabilitation Act, as amended."

40 Stat. 617; 41 Stat. 735.

29 U. S. C. §§ 31-44.
Payment for services.

(b) Section 9 of the Federal Employees' Compensation Act, as so amended, is further amended by inserting immediately before the last sentence of subsection (a) of such section the following: "The Administrator may, under such limitations or conditions as he shall deem necessary, authorize employing establishments of the United States to provide for the initial furnishing of medical and other benefits under this section, and the Administrator may certify for payment out of the Employees' Compensation Fund vouchers for expenses thus incurred for such benefits, upon certification by the person required by section 24 to make reports of injury that the expense was incurred in respect to injury which was accepted by the employing establishment as probably compensable under this Act. The form and content of such certification shall be prescribed by the Administrator."

57 Stat. 376.
29 U. S. C. § 33 (a)

(4).
39 Stat. 743.
5 U. S. C. § 759.
Initial medical, etc., benefits.

39 Stat. 747.
5 U. S. C. § 774.

COMPUTATION OF PAY

SEC. 203. Section 12 of the Federal Employees' Compensation Act (5 U. S. C., 1946 edition, sec. 762) is amended to read as follows:

"SEC. 12. (a) In computing monetary compensation for disability or death upon the basis of monthly pay, such pay shall be determined in accordance with the provisions of this section.

Subsistence and quarters.

Restriction.

"(b) The value of subsistence and quarters, and of any other form of remuneration in kind for services if its value can be estimated in money, shall be included as part of the pay. Overtime pay, or additional pay or allowance authorized outside the United States because of differential in cost of living or other special circumstance, or bonus or premium pay for extraordinary service (including amounts paid as bonus for particularly hazardous service in time of war) shall not be taken into account. The term 'overtime pay', as used in this subsection, means pay for hours of service in excess of those of a statutory or other basic workweek, or other basic unit of work time,

"Overtime pay."

as observed by the establishment in which the employee is employed.

“(c) (1) The monthly pay at the time of injury shall be deemed to be one-twelfth of the employee’s average annual earnings at that time, except that when compensation is paid upon a weekly basis, the weekly equivalent of such monthly pay shall be deemed to be one-fifty-second of such average annual earnings: *Provided*, That, for so much of the period of total disability as does not exceed ninety calendar days from the date of the beginning of compensable disability, the compensation may, in the discretion of the Administrator, be computed on the basis of the employee’s actual daily wage at the time of injury and in that event he may be paid compensation for such days as he would have worked but for the injury.

Monthly pay at
time of injury.

Actual daily wage
as basis.

“(2) Average annual earnings shall be determined as follows:

Average annual
earnings.

“(A) If the employee worked in the employment in which he was working at the time of his injury during substantially the whole of the year immediately preceding such injury, his average annual earnings shall consist of the product obtained by multiplying his daily wage for the particular employment, or the average thereof if the daily wage has fluctuated, by three hundred if he was employed on the basis of a six-day workweek, two hundred and eighty if employed on the basis of a five-and-one-half-day week, and two hundred and sixty if employed on the basis of a five-day week, except that if the employment was in a position for which an annual rate of compensation was fixed, such average annual earnings shall consist of such annual rate of compensation.

“(B) If the injured employee did not work in such employment during substantially the whole of such year, but the position was such as would have afforded employment for substantially a whole year, then the average annual earnings of such employee shall be equal to the average annual earnings of an employee of the same class working substantially the whole of such immediately preceding year in the same or similar employment by the United States in the same or neighboring place, as determined in accordance with clause (A).

“(C) If either of the foregoing methods of determining the average annual earnings of an injured employee cannot reasonably and fairly be applied, such average annual earnings shall be such sum as, having regard to the previous earnings of the injured employee in Federal employment, and of other employees of the United States in the same or most similar class working in the same or most similar employment in the same or neighboring locality, or to other previous employment of such employee, or to any other relevant factors, shall reasonably represent the annual earning capacity of the injured employee in the employment in which he was working at the time of the injury: *Provided*, That his average annual earnings shall consist of not less than one hundred and fifty times the average daily wage which he shall have earned in such employment during the days when so employed within the period of one year immediately preceding his injury.

Minimum.

“(D) Such rules shall, so far as practicable, be also applied in the case of an employee serving without pay or at nominal pay: *Provided*, That (i) the average annual earnings of such employee shall in no event exceed the basic rate of annual compensation specified under the Classification Act of 1923, as amended, for positions in grade CAF-15 or P-8 at the bottom of such grade, and (ii) if his average annual earnings cannot reasonably and fairly be determined in the manner otherwise provided

Limitation.

42 Stat. 1488.
5 U. S. C. §§ 661-
674; Supp. II, § 662 et
seq.
Post, p. 972.

in this section, such average annual earnings shall be determined at the reasonable value of the service rendered but not in excess of \$3,600 per annum.

"Year."

"(d) As used in this section the term 'year' means a period of twelve calendar months, or the equivalent thereof as specified in regulations issued by the Administrator."

COMPUTATION OF WAGE-EARNING CAPACITY

39 Stat. 746.

SEC. 204. Section 13 of the Federal Employees' Compensation Act (5 U. S. C., 1946 edition, sec. 763), is amended to read as follows:

Ante, p. 862.

"SEC. 13. (a) In the determination of an employee's wage-earning capacity after the beginning of partial disability, the rules specified in section 12 (b) shall apply.

Ante, p. 855.

"(b) The wage-earning capacity of an injured employee, in determining compensation for partial disability other than permanent partial disability compensable under section 5, shall be determined by his actual earnings if such actual earnings fairly and reasonably represent his wage-earning capacity: *Provided, however,* That if the employee has no actual earnings, or his actual earnings do not fairly and reasonably represent his wage-earning capacity, such wage-earning capacity as shall appear reasonable under the circumstances of the case shall be determined, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition."

Determination of wage-earning capacity.

ADMINISTRATOR SUBSTITUTED FOR COMMISSION

39 Stat. 748.
5 U. S. C. § 778 note.

SEC. 205. (a) Section 28 of the Federal Employees' Compensation Act, as amended, is amended to read as follows:

Delegation of powers.

"SEC. 28. This Act shall be administered by the Administrator. The Administrator is authorized to delegate to any officer or employee of the Federal Security Agency any of the powers conferred upon him by this Act."

39 Stat. 748.
5 U. S. C. § 779.

(b) The first and third sentences of section 28a of such Act are repealed, but such repeal shall not be construed to revive any independent bureau or other agency abolished by such section.

(c) (1) The word "commission" (or other designation of the commission), and the word "it" or "its" whenever they refer to the commission, in any part of such Act, are struck out wherever necessary in order to give effect to subsection (a) of this section, and the words "Administrator" and "he" or "his", respectively, are inserted in lieu thereof.

39 Stat. 748.
5 U. S. C. § 780.

(2) In addition, the phrase "or any commissioner by authority of the commission," in section 29 of such Act is struck out.

OVERPAYMENTS

39 Stat. 749.

SEC. 206. Section 38 of the Federal Employees' Compensation Act (5 U. S. C., 1946 edition, sec. 788), is amended to read as follows:

39 Stat. 749.
5 U. S. C. §§ 786,
787.

"SEC. 38. (a) Subject to the provisions of sections 36 and 37, whenever by reason of an error of fact or law an overpayment has been made to an individual under this Act, proper adjustments shall be made, under regulations prescribed by the Administrator, by decreasing subsequent payments to which such individual is entitled. If such individual dies before such adjustment has been completed, adjustment shall be made by decreasing subsequent benefits, if any, payable under this Act with respect to such individual's death.

Incorrect payments.

"(b) There shall be no adjustment or recovery by the United States in any case where incorrect payment has been made to an individual

who is without fault and where adjustment or recovery would defeat the purpose of this Act or would be against equity and good conscience.

“(c) No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any person where the adjustment or recovery of such amount is waived under subsection (b), or where adjustment under subsection (a) is not completed prior to the death of all persons against whose benefits deductions are authorized.”

Nonliability.

SHORT TITLE

SEC. 207. The Federal Employees' Compensation Act, as amended, is further amended by adding thereto at the end thereof a new section as follows:

39 Stat. 742.
5 U. S. C. §§ 751-793.
Ante, p. 854 *et seq.*

“SEC. 43. This Act may be cited as the ‘Federal Employees’ Compensation Act.’”

FEEES

SEC. 208. Section 23 of such Act, as amended, is further amended to read as follows:

39 Stat. 747.
5 U. S. C. § 773.

“SEC. 23. (a) Fees or examinations made on the part of the United States under sections 21 and 22 by physicians who are not officers or employees of the United States and not under contract to the United States to render medical services to its employees shall be fixed by the Administrator. Such fees, and any sum payable to the employee under section 21, which authorized or approved by the Administrator, shall be paid from the Employees' Compensation Fund.

39 Stat. 747.
5 U. S. C. §§ 771,
772.

“(b) A claimant may be represented before the Administrator in any proceeding under this Act by any person duly authorized by such claimant. No claim for legal services or for any other services rendered in respect of a case, claim, or award for compensation under this Act, to or on account of any person, shall be valid unless approved by the Administrator. Any person who receives any fee or other consideration, or any gratuity on account of services so rendered, unless such fee, consideration, or gratuity, is so approved, or who solicits employment for himself or another in respect of any case, claim, or award for compensation under (or to be brought under) this Act shall be guilty of a misdemeanor and upon conviction thereof shall, for each offense, be punished by a fine of not more than \$1,000 or by imprisonment not to exceed one year, or by both such fine and imprisonment.

Representative of
claimant.

“(c) If any person in proceedings before the Administrator or his duly authorized representative disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, the Administrator or his duly authorized representative shall certify the facts to the district court having jurisdiction in the place in which he is sitting (or to the district court of the United States for the District of Columbia if he is sitting in such district) which shall thereupon in a summary manner hear the evidence as to the acts complained of, and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of or in the presence of the court.”

Disobedience, etc.,
of lawful order.

ACCIDENT PREVENTION AND ANNUAL REPORTS

SEC. 209. Section 33 of the Federal Employees' Compensation Act, as amended, is further amended by designating the first two paragraphs thereof, respectively, subsections “(a)” and “(b)” and by adding a new subsection designated as “(c)”, as follows:

39 Stat. 749.
5 U. S. C. § 784.

“(c) In order to reduce the number of accidents and injuries among Government officers and employees, encourage safe practices, eliminate work hazards and health risks, and reduce compensable injuries,

Reports.

the heads of the various departments and agencies are authorized and directed to develop, support, and foster organized safety promotion, and the President may also establish by Executive order a safety council composed of representatives of Government departments and agencies to serve as an advisory body to the Administrator in furtherance of the safety program carried out by the Administrator pursuant to this section, and the President may undertake such other measures as he may deem proper to prevent injuries and accidents to persons covered by this Act. Departments and other agencies of the United States shall keep such records of injuries and accidents to persons covered by this Act, whether or not resulting in loss of time or the payment or furnishing of benefits, and make such statistical or other reports and upon such forms as the Administrator may by regulation prescribe."

TITLE III—TRANSITIONAL PROVISIONS AND EFFECTIVE DATE

EXTENSION OF TIME LIMITATIONS

39 Stat. 742.
5 U. S. C. §§ 751-793.
Ante, p. 854 *et seq.*

SEC. 301. (a) Where an individual with respect to whose disability or death compensation is claimed under the Federal Employees' Compensation Act, as amended, was injured or died outside the United States on or after December 7, 1941, and before August 11, 1946, the time limitations of such Act with respect to the giving of notice of injury and the filing of a claim for compensation shall not begin to run until the date of enactment of this Act.

"United States."

(b) As used in this subsection, the term "United States" includes only the States, Alaska, Hawaii, Puerto Rico, the Virgin Islands, and the Canal Zone.

COMPROMISE SETTLEMENTS—PRIVATE ACTS

39 Stat. 742.
5 U. S. C. §§ 751-793.
Ante, p. 854 *et seq.*

SEC. 302. The provisions of this Act shall not be construed to authorize the payment of any compensation under the Federal Employees' Compensation Act in any case where, pursuant to private relief legislation, a beneficiary of such legislation has accepted payment of a grant in satisfaction of the liability of the United States (or its corporation, agency, or other instrumentality) in such case, or where such liability has been compromised and settled, or other satisfaction received, as the result of any action sounding in tort or under maritime law, or where a lump sum has been received under section 14 of the Federal Employees' Compensation Act and the lump-sum award is not modified or set aside for other reasons.

39 Stat. 746.
5 U. S. C. § 764.

EFFECTIVE OPERATION

Ante, pp. 854, 861.

SEC. 303. (a) Except as otherwise provided by this section or in this Act, titles I and II of this Act shall take effect on the date of enactment of this Act and be applicable to any injury or death occurring before or after such date.

Ante, p. 854.

(b) The amendments made by section 101 of this Act to sections 2 and 8 of the Federal Employees' Compensation Act shall not apply to any period of disability commencing before the enactment of this Act.

Ante, pp. 855, 858,
869.

(c) The amendments made by sections 102, 103, 105, and 106 of this Act to sections 3, 4 (a), 6, 10, and 39 of the Federal Employees' Compensation Act shall be applicable to cases of injury or death occurring before enactment of this Act only with respect to any period beginning on or after the first day of the first calendar month following the enactment of this Act.

(d) (1) The amendments made by section 104 of this Act to section 5 of the Federal Employees' Compensation Act, establishing special provisions for permanent disability involving the loss, or loss of use, of a member or function of the body, shall (A) in cases within the purview of section 5 (b) or in cases of disfigurement apply retroactively to any case where the injury occurred on or after January 1, 1940, and (B) in other cases, apply retroactively to injuries which occurred within one year prior to the enactment of this Act: *Provided*, That where the injury occurred before such enactment, except in cases specified in subsection (b) of section 5 of such Act, as so amended, the injured employee shall not be entitled to compensation under the schedule unless within one year after such date of enactment he elects to receive compensation under the schedule if so entitled: *Provided further*, That in the event of such election, all amounts theretofore paid on the basis of loss of wage-earning capacity as compensation for permanent disability involving a loss, or loss of use, of a member or function, or disfigurement, as specified in the schedule shall be credited against any compensation awarded by reason of such amendment: *And provided further*, That any award made under the provisions of this subsection shall be payable prospectively in the same manner as though the injury occurred after the enactment of this Act.

Ante, p. 855.*Ante*, p. 856.

Time limitation.

Credit of prior compensation.

(2) No payment upon death pursuant to section 5 (d) of the Federal Employees' Compensation Act, as amended by this Act, shall be made unless death occurs after such enactment. In the event of such death, the election required by paragraph (1) of this subsection shall be deemed to have been made.

Ante, p. 857.

(e) Section 107 of this Act, amending section 11 of the Federal Employees' Compensation Act, shall apply only to deaths occurring after the enactment of this Act.

Ante, p. 860.

(f) (1) The amendments made by section 108 of this Act to the definition of the term "employee" contained in section 40 of the Federal Employees' Compensation Act shall, as to any case of injury or death occurring before the date of enactment of this Act, apply only to injuries or deaths occurring on or after December 7, 1941, and compensation (including medical or other benefits) in any such case shall not be paid for any period earlier than the first day of the first month following enactment of this Act and, in cases of disability caused by such an injury, shall be limited to compensation for permanent partial or permanent total disability.

Ante, p. 860.

(2) The time limitations of the Federal Employees' Compensation Act with respect to the giving of notice of injury and the filing of a claim for compensation, in any case brought within the purview of section 40 of such Act by this Act, shall not begin to run until the date of enactment of this Act.

Time limitations.

39 Stat. 750.
5 U. S. C. § 790.
Ante, p. 860.
Ante, p. 861.

(g) The amendment made by section 201 of this Act to section 7 of the Federal Employees' Compensation Act, making the remedy and liability under such Act exclusive except as to masters or members of the crew of any vessel, shall apply to any case of injury or death occurring prior to the date of enactment of this Act: *Provided, however*, That any person who has commenced a civil action or an action in admiralty with respect to such injury or death prior to such date, shall have the right at his election to continue such action notwithstanding any provision of this Act to the contrary, or to discontinue such action within six months after such date before final judgment and file claim for compensation under the Federal Employees' Compensation Act, as amended, within the time limited by sections 15 to 20 of such Act (including any extension of such time limitations by any provision of this Act), or within one year after enactment of this Act, whichever is later. If any such action is not discontinued and is

Civil or admiralty actions.

39 Stat. 742.
5 U. S. C. §§ 751-793.
39 Stat. 746.
5 U. S. C. §§ 765-770.

decided adversely to the claimant on the ground that the remedy or liability under the Federal Employees' Compensation Act is exclusive, or on jurisdictional grounds, or for insufficiency of the pleadings, the claimant shall, within the time limited by sections 15 to 20 of such Act (including any extension of such time limitations by any provision of this Act), or within one year after final determination of such cause, whichever is later, be entitled to file a claim under such Act.

39 Stat. 746.
5 U. S. C. §§ 765-770.

Ante, pp. 862, 864.

(h) The amendments made by sections 203 and 204 of this Act to sections 12 and 13 of the Federal Employees' Compensation Act, pertaining to the determination of the employee's pay or his wage-earning capacity, may, in the interest of justice and in the discretion of the Administrator, be applied in any case, irrespective of the date of injury or death, so as to cause payments of compensation, with respect to any period not earlier than the first day of the first month after enactment of this Act, to be consistent with such amendments.

TIME LIMITATIONS NOT EXTENDED

SEC. 304. Except as otherwise expressly provided, the enactment of this Act shall not suspend or defer the running of the time limitations of the Federal Employees' Compensation Act with respect to the giving of notice of injury and filing of a claim for compensation.

39 Stat. 742.
5 U. S. C. §§ 751-793.
Ante, p. 854 *et seq.*

SEAMEN

SEC. 305. (a) Nothing contained in this Act shall be construed to affect the exclusion of certain seamen (as defined in the Act of March 24, 1943, ch. 26, 57 Stat. 45, as amended; 50 U. S. C., Appendix, sec. 1291) from the terms of the Federal Employees' Compensation Act, as provided by such Act of March 24, 1943, as amended.

39 Stat. 742.
5 U. S. C. §§ 751-793.

(b) Nothing contained in this Act shall be construed to affect any maritime rights and remedies of a master or member of the crew of any vessel.

TITLE IV

LIBERALIZATION OF MINIMUM AND MAXIMUM COMPENSATION FOR EMERGENCY RELIEF WORKERS

SEC. 401. (a) Clauses (a), (b), and (c) of the second proviso to section 1 of the Act approved February 15, 1934 (ch. 13, 48 Stat. 351), are hereby amended to read as follows:

5 U. S. C. § 796.
Aggregate monetary compensation.

"(a) that the aggregate monetary compensation in any individual case, except compensation for death or for permanent total disability, shall not exceed the sum of \$4,000 and that the monthly monetary compensation shall not in any event exceed \$100, both exclusive of medical costs;

Minimum monthly pay.
Ante, p. 858.

"(b) that, in lieu of the minimum limit on monthly compensation for disability established by section 6 and the minimum limit on the monthly pay on which death compensation is to be computed as provided by section 10 (K) of such Act, the monthly pay on the basis of which compensation for disability or death is computed shall be deemed to be not less than \$75 and compensation shall be payable on the basis of such pay regardless of the actual pay at the time of injury or death, except that the Federal Security Administrator may from time to time, by regulation, fix a lower minimum monthly pay as a basis for computing such compensation as to any class of individuals, specified in the fourth paragraph of section 42 of such Act, as amended, who sustained injury or were killed outside the continental United States;

Ante, p. 859.

56 Stat. 725.
5 U. S. C. § 793.

Special schedules.

"(c) that the Federal Security Administrator may from time to time, subject to the above limitations, establish a special sched-

ule of compensation for disability and for death (including a special schedule of compensation for the loss, or loss of use, of members or functions of the body), and compensation under such schedule shall be in lieu of all other compensation in such cases;”.

(b) The first proviso to section 8 of the Emergency Relief Appropriation Act of 1937 (ch. 401, 50 Stat. 352, 356), and the first proviso to section 16 of the Emergency Relief Appropriation Act of 1938 (ch. 554, 52 Stat. 809, 814), are repealed.

(c) This section shall apply to any case heretofore or hereafter coming within the purview of such Act of February 15, 1934, but no compensation shall, with respect to any case of injury or death occurring before the date of enactment of this Act, accrue or be increased by reason of the enactment of this section for any period prior to the first day of the first month following the date of enactment of this Act.

(d) The special schedule of compensation heretofore established pursuant to clause (a) of the second proviso to section 1 of such Act of February 15, 1934, shall remain in effect until superseded by a new schedule established pursuant to the amendments made by this section.

MEMBERS OF WOMEN'S ARMY AUXILIARY CORPS

SEC. 402. Effective as of July 25, 1947, paragraph a of section 2 of the Act approved July 25, 1947 (ch. 327, 61 Stat. 449, 451), is amended by striking out the semicolon at the end of the provision repealing the Act of July 1, 1943 (57 Stat. 371), and the Act of May 14, 1942 (56 Stat. 278), as amended, and inserting in lieu thereof a colon and the following proviso: “*Provided*, That section 11 of such Act of May 14, 1942, shall remain in effect to the extent specified in section 5 of such Act of July 1, 1943;”.

Approved October 14, 1949.

[CHAPTER 694]

AN ACT

Making supplemental appropriations for the fiscal year ending June 30, 1950, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations for the fiscal year ending June 30, 1950, and for other purposes, namely:

LEGISLATIVE BRANCH

SENATE

Office of the Sergeant at Arms and Doorkeeper: Effective on the first day of the first month following enactment of this Act, the appropriation for salaries of officers and employees of the Senate contained in the Legislative Branch Appropriation Act for the fiscal year 1950 is made available for the compensation of one additional special employee at the basic rate of \$1,000 per annum.

For payment to Adelaide R. Hasse for compensation for the compilation of the index digest of the Temporary National Economic Committee, \$3,600.

HOUSE OF REPRESENTATIVES

CONTINGENT EXPENSES OF THE HOUSE

For payment to John C. Davies, contestee, for expenses incurred in the contested election case of Fuller versus Davies as audited and

Repeals.

Applicability.

48 Stat. 351.
5 U. S. C. § 796.
Ante, p. 868.

Termination of special schedule.

48 Stat. 351.
5 U. S. C. § 796.

50 U. S. C., Supp. II, app. §§ 1551-1555 notes; 10 U. S. C., Supp. II, §§ 484, 571, 1711 notes.

50 U. S. C. § 301; 50 U. S. C. app. §§ 1551-1555; Supp. II, §§ 1551-1555 notes.

56 Stat. 280; 57 Stat. 371.

10 U. S. C. § 1711; Supp. II, § 1711 note; 50 U. S. C. app. § 1555; Supp. II, § 1555 note.

October 14, 1949

[H. R. 6008]

[Public Law 358]

Supplemental Appropriation Act, 1950.
Post, p. 973.

Ante, p. 217.