

**CHAPTER 3.**  
**Workers' Compensation Law.**  
**Article 1. General Provisions.**

**§ 9301. Short Title.**

This chapter may be cited as the Commonwealth **Workers' Compensation Law.**

**Source:** PL 6-33, § 1 (§ 9301), modified.

**Commission Comment:** PL 6-33 took effect October 25, 1989.

**§ 9302. Definitions.**

As used in this chapter:

(a) "Administrator" means the executive head of the **workers' compensation** system who shall be the administrator of the Northern Mariana Islands Retirement Fund or a designee of the Retirement Fund administrator.

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

(c) "Carrier" includes stock corporations or mutual associations from which any employer has obtained **workers' compensation** insurance or guaranty insurance in accordance with the provisions of this chapter.

(d) "Child," "grandchild," "brother," and "sister." The term "child" includes a posthumously born natural child of a deceased employee, a child legally adopted before the injury of the employee, a child in relation to whom the deceased employee stood in loco parentis for at least one year before the time of the injury, a stepchild, or an acknowledged illegitimate child. The term "grandchild" means a child, as defined above. The terms "brother" and "sister" include only siblings of the employee. The terms "child," "grandchild," "brother," and "sister" include only persons who are under 18 years of age or who are over 18 years of age and were dependent for at least one-half of their support upon the deceased employee at the time of his injury and are incapable of full self-support by reason of mental or physical disability. The terms "child," "grandchild," "brother," and "sister," also include persons who are 18 years of age or over but under 22 years of age, who are enrolled on the date of injury in a secondary or postsecondary educational program or in a bona fide vocational training program, and who at the date of injury are dependent upon their parent or parents for more than one-half of their support.

(e) "Commission" means the **Workers' Compensation** Commission which shall be the Board of Trustees of the Northern Mariana Islands Retirement Fund.

(f) "Commonwealth" when used in a geographical sense, means the Commonwealth of the Northern Mariana Islands including the waters thereof, extending to the outer limit of the exclusive economic zone established pursuant to the Marine Sovereignty Act of 1980 [2 CMC § 1101 et seq.].

(g) "Compensation" means the payment for medical services and supplies, the disability benefits payable to an employee or to his dependents, and such other payments arising from the injury of an

employee as provided for in this chapter.

(h) “Date of disability” means the date after which an employee can no longer earn the wages he or she was earning at the time of the injury resulting in the disability. The date of disability is not necessarily the date of injury.

(i) “Death” when used as a basis for a right to compensation under this chapter, means only death resulting from an injury.

(j) “Disability” means incapacity, because of injury, to earn the wages which the employee was receiving at the time of injury in the same or any other employment.

(k) “Disability benefits” means the money allowance payable periodically to an employee or to his survivors as provided for in this chapter.

(l) “Employee” means any person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed. “Employee” specifically includes aquacultural and agricultural workers. “Employee” excludes any person whose employment is purely casual and not for the purpose of the employer’s trade or business, any corporate director not receiving any compensation, independent contractors, and any person employed by the inhabitant of a private dwelling to reside at the dwelling and perform household domestic service.

(m) “Employer” means any person, corporate or unincorporate, public or private, who employs the services of others in return for wages, salaries or other remuneration and includes the legal representative of a deceased employer. “Employer” excludes a person who employs for a specified recompense for a specified result an independent contractor and who may or may not in turn employ others whose work is directed as to the means of accomplishing such result by the independent contractor. If the employer is insured, it includes his insurer as far as applicable.

(n) “Independent contractor” means any person who renders service for a specified recompense for a specified result, under the control of his principal as to the result of his work only and not as to the means by which such result is accomplished.

(o) “Injury” means accidental injury or death arising out of and in the course of employment, and such occupational disease or infection as arises naturally out of such employment or as naturally or unavoidably results from such accident or injury. The term includes an injury caused by the willful act of a third person inflicted upon any employee in the course of his employment.

(p) “Parent” means a natural parent, step-parent, parent by adoption, parent-in-law, and any person who for more than three years before the death of the deceased employee stood in the place of a parent to him.

(q) “Person” means an individual, partnership, corporation, association, governmental entity, or any other entity.

(r) “Spouse” means the person who was the deceased employee’s wife or husband at the time of the employee’s death.

(s) “Wages” means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury; including the reasonable value of board, rent, housing, lodging, or other similar advantages received from the employer, and gratuities received in the course of employment from other than the employer.

**Source:** PL 6-33, § 1 (§ 9302); amended by PL 9-33, § 3.

**§ 9303. Coverage.**

(a) Compensation shall be payable under this chapter in case of disability or death of an employee, but only if the disability or death results from an injury or illness arising out of and in the course of employment.

(b) (1) An employer who hires a **worker** in the Commonwealth and then transfers that same **worker** to a work assignment outside of the Commonwealth on a temporary nature must provide **compensation** insurance with benefits at least equal to those required by the Commonwealth. Such policy shall also meet the requirements of 4 CMC § 9353(c)(2).

(2) If a **worker** who has been hired in the Commonwealth sustains personal injury by accident arising out of and in the course of his employment, he shall be entitled to **compensation** in accordance with the laws of the Commonwealth.

(c) Any person who may be injured in performing service for the government in any voluntary or unpaid capacity under the authorized direction of a public officer or employee, and who shall not have secured payment of his hospital and medical expenses from the Commonwealth government or under any other provision of law and shall not have secured payment thereof from any third person, shall be paid his reasonable hospital and medical expenses by the Commonwealth government.

(d) No compensation shall be payable under this chapter to the employee if the injury was proximately caused by the intoxication of the employee or by the willful intention of the employee to injure or kill himself or others.

(e) Any person who may be injured in performing service for the Commonwealth government as a volunteer firefighter or reserve police officer under the authorized direction of a public officer or employee, and who shall not have secured compensation from any third person, shall be paid by the Commonwealth government compensation equivalent to that of a firefighter or police officer. The commission shall adopt rules and regulations to implement this section.

**Source:** PL 6-33, § 1 (§ 9303); amended by PL 9-33, §§ 4, 5.

**§ 9304. Liability for Compensation.**

(a) Every employer shall be liable for and shall secure payment of such compensation as may be required under 4 CMC §§ 9307, 9308 and 9309.

(b) Compensation shall be payable irrespective of fault as to the injury.

(c) In the case of an employer who is a subcontractor or jobber in the construction or garment manufacturing industries, the contractor shall be liable for and shall secure payment of such compensation to employees of the subcontractor unless the subcontractor has secured such payments.

**Source:** PL 6-33, § 1 (§ 9304).

**§ 9305. Exclusiveness of Liability.**

Where the conditions of compensation exist, the right to recover such compensation, pursuant to the

provisions of this chapter, is the exclusive remedy for injury or death of an employee against the employer or against any other employee of the employer acting within the scope of such other employee's employment; provided that, if an employer fails to secure payment of compensation as required by this chapter, an injured employee, or his legal representative in case death resulted from the injury, may elect to claim compensation under this chapter, or to maintain an action at law or for damages on account of such injury or death. In such action, the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant nor that the employee assumed the risk of his employment, nor that the injury was due to the contributory negligence of the employee.

**Source:** PL 6-33, § 1 (§ 9305).

**Case Annotations:** *Ada v. Saipan Sanko*, Civil Action No. 92-674 (Super. Ct. Dec. 30, 1993); *Bernal v. Tenorio*, Civil Action No. 93-890 (Super. Ct. May 25, 1994).

### **§ 9306. Disability Benefits: Time for Commencement, Maximum Amount.**

(a) If an injury causes disability, a disability benefit payment shall be made for one week in advance on the fourth day after the date of disability.

(b) Disability benefits shall not exceed \$140 per week.

**Source:** PL 6-33, § 1 (§ 9306).

### **§ 9307. Medical Services and Supplies.**

(a) (1) The employer shall furnish to the injured employee such remedial treatment, care, and attendance under the direction of a qualified physician or surgeon or other recognized practitioner, nurse or hospital, as the nature of the injury or the process of recovery may require, including medicines, crutches, artificial limbs and other apparatus and vocational rehabilitation services.

(2) If the employer refuses to provide, after request by the injured employee, or neglects to provide, having knowledge of the injury, treatment and services required by the injury, the injured employee may do so and shall be entitled to recover from the employer the amount expended.

(3) No such claim for medical or surgical treatment shall be valid and enforceable, as against such employer, unless within 20 days following the first treatment, the physician giving such treatment shall furnish to the employer and the administrator a report of such injury and treatment on a form prescribed by the commission. The administrator may, however, excuse the failure to furnish such report within 20 days when he finds it to be in the interest of justice to do so, and he may, upon application by a party in interest, make award for the reasonable value of such medical or surgical treatment so obtained by the employee.

(4) If at any time during such period the employee unreasonably refuses to submit to medical or surgical treatment, the administrator may, by order, suspend the payment of further compensation during such time as such refusal continues.

(b) Whenever, in the opinion of the administrator, a physician has not impartially estimated the degree of permanent disability or the extent of temporary disability of any injured employee, the administrator shall have the power to cause such employee to be examined by a physician selected by the administrator and to obtain a report containing the physician's estimate of such disabilities. If the report of the second physician shows that the estimate of the first physician has not been

impartial from the standpoint of such employee, the administrator shall have the power, at his discretion, to charge the cost of such examination to the employer.

(c) Any fees and other charges for treatment or service shall be limited to such charges as prevail in the same community for similar treatment of injured persons.

(d) The liability of an employer for medical treatment as herein provided shall not be affected by the fact that his employee was injured through the fault or negligence of a third party, not in the same employment. The employer shall, however, have a cause of action against such third party to recover any amounts paid by him for such medical treatment in like manner as provided in 4 CMC § 9342.

**Source:** PL 6-33, § 1 (§ 9307).

### **§ 9308. Disability Benefits.**

Disability benefits shall be paid to the employee as follows:

(a) *Permanent Total Disability.* In case of total disability, adjudged to be permanent, 66 and two-thirds percent of his average weekly wages shall be paid to the employee during the continuance of such total disability.

Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof shall, in the absence of conclusive proof to the contrary, constitute permanent total disability. In all other cases, permanent total disability shall be determined in accordance with the facts.

(b) *Temporary Total Disability.* In case of temporary total disability, 66 and two-thirds percent of the average weekly wages shall be paid to the employee during the continuance thereof.

(c) *Permanent Partial Disability.* In case of permanent partial disability, the disability benefits shall be 66 and two-thirds percent of the average weekly wages, which shall be in addition to disability benefits for temporary total disability or temporary partial disability paid in accordance with subsection (b) or subsection (e) of this section respectively and shall be paid to the employee as follows:

- (1) Arm lost, 280 weeks disability benefits.
- (2) Leg lost, 248 weeks disability benefits.
- (3) Hand lost, 212 weeks disability benefits.
- (4) Foot lost, 172 weeks disability benefits.
- (5) Eye lost, 140 weeks disability benefits.
- (6) Thumb lost, 51 weeks disability benefits.
- (7) First finger lost, 28 weeks disability benefits.
- (8) Great toe lost, 26 weeks disability benefits.
- (9) Second finger lost, 18 weeks disability benefits.
- (10) Third finger lost, 17 weeks disability benefits.
- (11) Toe other than great toe lost, eight weeks disability benefits.
- (12) Fourth finger lost, seven weeks disability benefits.
- (13) *Loss of Hearing.* Disability benefits for loss of hearing of one ear, 52 weeks, or of both ears, 200 weeks.
- (14) *Phalanges.* Disability benefits for loss of more than one phalanges of a digit shall be the same as for lost of the entire digit. Disability benefits for loss of the first phalanx of a digit shall be one-half of the disability benefits for the loss of the entire digit.

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

(16) *Binocular Vision or Percent of Vision.* Disability benefits for loss of binocular vision or for 80 percent or more of the vision of an eye shall be the same as for loss of the eye.

(17) *Two or More Digits.* Disability benefits for loss of two or more digits, or one or more phalanges of two or more digits, of a hand or foot shall be proportioned to the loss of the hand or foot.

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

(19) *Partial Loss or Loss of Use.* Disability benefits for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member.

(20) *Disfigurement.* The administrator shall award proper and equitable disability benefits for serious facial or head disfigurement.

(21) *Other Cases.* In all other cases of permanent partial disability the disability benefits shall be two-thirds of the difference between the employee's average weekly wages and his wage earning capacity thereafter in the same employment or otherwise, payable during the continuance of such partial disability; provided that, disability benefits shall be subject to reconsideration as to the degree of such impairment by the administrator on his own motion or upon application of any party in interest.

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

(d) An award for disability may be made after the death of the injured employee. Any disability benefits to which any deceased claimant would be entitled under subsection (c) of this section shall, notwithstanding death arising from contributing causes other than the injury, be payable to and for the benefit of the following persons:

(1) If there be a surviving spouse, and no child of the deceased, to such spouse.

(2) If there be a surviving spouse, and surviving child or children of the deceased, one half shall be payable to the surviving spouse and the other half to the surviving child or children.

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

(e) *Temporary Partial Disability.* In case of temporary partial disability resulting in a decrease of earning capacity, the disability benefits shall be two-thirds of the difference between the injured employee's average weekly wages before the injury and his wage earning capacity after the injury in the same or another employment. Disability benefits are to be paid during the continuance of such disability, but no longer than five years.

(f) *Injury Increasing Disability.*

(1) If an employee receives an injury which of itself would only cause permanent partial disability but which, combined with a previous disability does in fact cause permanent total

disability, the employer shall provide compensation only for the disability caused by the subsequent injury; provided, however, that in addition to compensation for such permanent partial disability, and after the cessation of the payments for the prescribed period of weeks, the employee shall be paid the remainder of the compensation that would be due for permanent total disability. Such additional compensation in biweekly installments and at the same rate as the disability benefits paid for the subsequent injury shall be paid out of the Special Disability Fund established in 4 CMC § 9353; and

(2) In all other cases in which, following a previous disability, an employee receives an injury which is not covered by subsection (f)(1) of this section, the employer shall provide compensation only for the disability caused by the subsequent injury. In determining disability benefits for the subsequent injury or death resulting therefrom, the average weekly wages shall be such sum as will reasonably represent the earning capacity of the employee at the time of subsequent injury.

(g) The wage earning capacity of an injured employee in cases of partial disability under subsection (c)(21) of this section and subsection (e) of this section shall be determined by his actual earnings if such actual earnings fairly and reasonably represent his wage earning capacity; provided, that if the employee has no actual earnings or if his actual earnings do not fairly and reasonably represent his wage earning capacity, the administrator may, in the interest of justice, fix such wage earning capacity as shall be reasonable, having due regard for the nature of the injury, the degree of physical impairment, the employee's usual employment, and any other factors or circumstances in the case which may affect the capacity of the employee to earn wages in a disabled condition including the effect of disability as it may extend into the future.

(h) In cases under subsection (c)(21) and subsection (e) of this section, upon the determination of the administrator that it is in the best interest of an injured employee entitled to disability benefits, the administrator may approve agreed settlements of the interested parties discharging the liability of the employer for such disability benefits, notwithstanding the provisions of 4 CMC §§ 9324(b) and 9325; provided, that the sum so agreed upon shall be payable in installments and shall be subject to commutation under 4 CMC § 9323(j); and provided further, that if the employee should die from causes other than the injury after the administrator has approved an agreed settlement as provided for herein, the sum so approved shall be payable in the manner prescribed in this section, to and for the benefit of the persons enumerated in subsection (d) of this section.

**Source:** PL 6-33, § 1 (§ 9308), modified.

### **§ 9309. Compensation for Death.**

If the injury causes death, the disability benefits shall be payable in the amounts and to or for the benefit of the persons following:

(a) Reasonable funeral expenses not exceeding \$1,200.

(b) If there be a surviving spouse and no child of the deceased, to such surviving spouse 35 percent of the average wages of the deceased until such time as the surviving spouse remarries, with two years' disability benefits in one sum upon remarriage; and, if there be a surviving child or children of the deceased, the additional amount of 15 percent of such wages for each child. In the case of the death or remarriage of such surviving spouse, if there be one surviving child of the deceased employee, such child shall have his disability benefits increased to 35 percent of such

wages; and if there be more than one surviving child of the deceased employee, to such children, in equal parts, 35 percent of such wages, increased by 15 percent of such wages for each child in excess of one; provided, that the total amount payable shall in no case exceed two-thirds of such wages.

(c) If there be one surviving child of the deceased, but no surviving spouse, then for the support of such child 35 percent of the wages of the deceased. If there be more than one surviving child of the deceased, but no surviving spouse, then for the support of such children, in equal parts, 35 percent of such wages increased by 15 percent of such wages for each child in excess of one. The total amount payable under this section shall in no case exceed two-thirds of such wages.

(d) If there be no surviving spouse or child or if the amount payable to a surviving spouse and to children shall be less in the aggregate than 66 and two-thirds percent of the average wages of the deceased, then an amount no greater than the difference between two-thirds of such wages and the amount, if any, payable as hereinbefore provided to the surviving spouse and the surviving child or children shall be apportioned in the following percentages of such wages and in descending order of priority to:

- (1) Grandchildren, 15 percent for each;
- (2) Brothers and sisters, 15 percent for each;
- (3) Parents, if dependent upon the deceased at the time of the injury, 25 percent for each; and
- (4) Grandparents, if dependent upon the deceased at the time of the injury, 25 percent for each.

**Source:** PL 6-33, § 1 (§ 9309).

**Case Annotations:** *Estate of Faisao v. Tenorio*, 4 N.M.I. 260--267.

### **§ 9310. Determination of Pay.**

Except as otherwise provided in this chapter, the average weekly wage of the injured employee at the time of the injury shall be taken as the basis upon which to compute disability benefits and shall be determined as follows:

(a) If the injured employee shall have worked in the occupation in which he or she was working at the time of the injury, whether for the same or another employer, during a substantial portion of the 12 calendar months immediately preceding the injury, the average annual earnings shall consist of 313 times the average daily wage or salary (for a six day worker) or 261 times the average daily wage or salary (for a five day worker), employment during the days when so employed.

(b) If the injured employee shall not have worked in such occupation during a substantial portion of the immediately preceding twelve calendar months, his average annual earnings shall consist of 313 times (for a six day worker) and 261 times (for a five day worker) of the average daily wage or salary which an employee of the same occupation working a substantial portion of the immediately preceding 12 calendar months in the same or in a similar occupation in the same or a neighboring place shall have earned in such employment during the days when so employed.

(c) If either of the foregoing methods of arriving at the average annual earnings of the injured employee cannot reasonably and fairly be applied, such average annual earnings shall be such sum as shall reasonably represent the annual earning capacity of the injured employee in the occupation in which he or she was working at the time of the injury, and of other employees of the same or most similar occupation working in the same or neighboring locality or other employment of such

employee, including the reasonable value of the services of the employee if engaged in self-employment.

(d) The average weekly wages of an employee shall be one fifty-second (1/52) part of the employee's average annual earnings.

(e) If it be established that the injured employee was a minor when injured, and that under normal conditions the employee's wages would be expected to increase during the period of disability, that fact may be considered in arriving at the average weekly wages.

**Source:** PL 6-33, § 1 (§ 9310).

### **§ 9311. Guardian for Minor or Incompetent.**

The administrator may require the appointment of a guardian or any other representative, by a court of competent jurisdiction, for any person who is mentally incompetent or a minor. The guardian or representative shall receive the disability benefits payable to such person under this chapter and shall exercise the powers granted to, or perform the duties required of, such person under this chapter.

**Source:** PL 6-33, § 1 (§ 9311).

## **Article 2. Procedures for Claims.**

### **§ 9321. Notice of Injury or Death.**

(a) Notice of an injury or death for which compensation is payable under this chapter shall be given within 30 days after the date of such injury or death both to the administrator and to the employer.

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

(c) Notice shall be given to the administrator by personal delivery or by first class mail, addressed to the administrator's office; and to the employer by personal delivery or by sending it by first class mail, postage prepaid, addressed to the employer at its last known place of business. If the employer is a partnership, such notice may be given to any partner, or if a corporation, such notice shall be given to any agent or officer thereof upon whom legal process may be served or who is in charge of the business in the place where the injury occurred.

(d) Failure to give such notice shall not bar any claims under this chapter:

(1) If the employer (or the employer's agent in charge of the business in the place where the injury occurred) or the carrier had knowledge of the injury or death, and the administrator determines that the employer or carrier has not been prejudiced by failure to give such notice; or

(2) If the administrator excuses such failure on the ground that for some satisfactory reason such notice could not be given; or

(3) If objection to such failure is not raised before the administrator at the first hearing of a claim for compensation in respect to such injury or death.

**Source:** PL 6-33, § 1 (§ 9321).

**§ 9322. Time for Filing Claims.**

(a) The right to compensation under this chapter shall be barred unless a claim therefore is filed within one year after the injury, and the right to compensation for death shall be barred unless a claim therefore is filed within one year after death; provided, that if payment of compensation has been made without an award on account of such injury or death, a claim may be filed within one year after the date of the last payment. Such claim shall be filed with the administrator.

(b) Notwithstanding the provisions of subsection (a) of this section, failure to file a claim within the period prescribed in such subsection shall not be a bar to such right unless objection to such failure is made at the first hearing of such claim.

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

**Source:** PL 6-33, § 1 (§ 9322).

**§ 9323. Payment of Compensation.**

(a) Compensation under this chapter shall be paid promptly and directly to the person entitled thereto, without an award, except where the liability to pay compensation is controverted by the employer. Compensation under this chapter does not include payments as a result of any type of leave benefits to which an injured employee is entitled, such as sick, annual, or other types of leave.

(b) Disability benefits shall be paid in biweekly installments, except where the administrator determines that payment in installments should be made monthly or at some other interval.

(c) Upon making the first payment, suspending or terminating disability payment for any cause, the carrier providing worker's compensation insurance, or the self-insured employer, shall notify the administrator within 15 days on a form prescribed by the commission, that payment of disability benefits has begun or has been suspended, or has been terminated, as the case may be. If the employer or carrier fails to notify the administrator within such time, the administrator shall assess against such self-insured employer or carrier a civil penalty not to exceed \$50 for each failure of notification.

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

(e) If any installment of disability benefits payable without an award is not paid within 15 days after it becomes due, as provided in subsection (b) of this section, there shall be added to such unpaid installment an amount equal to 10 percent thereof, which shall be paid at the same time as,

but in addition to, such installment, unless notice is filed under subsection (d) of this section, or unless such nonpayment is excused by the administrator after a showing by the employer that, owing to conditions over which the employer had no control, such installment could not be paid within the period prescribed for the payment.

(f) If any disability benefits, payable under the terms of an award, are not paid within 10 days after becoming due, there shall be added to such unpaid disability benefits an amount equal to 20 percent thereof which shall be paid at the same time as, but in addition to, such disability benefits unless review of the compensation order making such award is had as provided in 4 CMC § 9330.

(g) Within 15 days after final payment of compensation has been made, the employer shall send to the administrator a notice, in accordance with a form prescribed by the commission, stating that such final payment has been made, the total amount of compensation paid, the name of the employee, and of any other person to whom compensation has been paid. If the employer fails to notify the administrator within such time, the commissioner shall assess against such employer a civil penalty in the amount of \$100.

(h) The administrator may at any time in a case in which payments are being made without an award, and shall in any case where right to compensation is controverted, or where payments of compensation have been stopped or suspended, upon receipt of notice from any person entitled to compensation, or from the employer that the right to compensation is controverted, or that payment of compensation has been stopped or suspended, make such investigations, cause such medical examinations to be made, or hold such hearings, and take such further action as he considers will properly protect the rights of all parties.

(i) The administrator may require any employer to make a deposit with the Commonwealth Treasurer to secure the prompt and convenient payment of such compensation. Payments upon any awards shall be made from such deposits by the Treasurer upon order of the administrator.

(j) Whenever the administrator determines that it is in the interest of justice, the liability of the employer for compensation or any part thereof, as determined by the administrator, may be discharged by the payment of a lump sum equal to the present value of future compensation payments commuted, computed at four percent true discount compounded annually. The probability of death of the injured employee or other person entitled to disability benefits before the expiration of the period during which he or she is entitled to disability benefits shall be determined in accordance with American Experience Table of Mortality or such other table as the commission may deem appropriate, and the probability of the remarriage of the surviving spouse shall be determined in accordance with the remarriage tables of the Dutch Royal Insurance Institution or such other table as the commission may deem appropriate. The probability of the happening of any other contingency affecting the amount or duration of the disability benefits shall be disregarded.

(k) An employer, who has made advance payments of compensation, shall be entitled to reimbursement out of any unpaid installment or installments of compensation due.

(l) Any recipient with disability payments under this chapter shall give receipts for such payment to the employer for inspection by the administrator, whenever required by the employer.

(m) The total disability benefits for either injury or death payable under this chapter to one employee for one occurrence of injury shall in no event exceed the sum of \$40,000.

**Source:** PL 6-33, § 1 (§ 9323); amended by PL 9-33, § 6.

**§ 9324. Invalid Agreements.**

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

(b) No agreement by any employee to waive the right to compensation under this chapter shall be valid.

**Source:** PL 6-33, § 1 (§ 9324).

**§ 9325. Assignment and Exemptions From Claims of Creditors.**

No assignment, release, or commutation of compensation due or payable under this chapter, shall be valid, except as provided by this chapter, and such compensation shall be exempt from all claims of creditors and from levy, execution, and attachment or other remedy for recovery or collection of a debt, which exemption may not be waived.

**Source:** PL 6-33, § 1 (§ 9325).

**§ 9326. Compensation: A Lien Against Assets.**

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

**Source:** PL 6-33, § 1 (§ 9326).

**§ 9327. Collection of Defaulted Payments.**

In case of default by the employer in the payment of compensation due under any award of compensation for a period of 30 days after the compensation is due and payable, the person to whom such compensation is payable may, within one year after such default, make application to the administrator for a supplementary order declaring the amount of the default. After investigation, notice, and hearing, as provided in 4 CMC § 9328, the administrator shall make a supplementary order declaring the amount of the default, if any, which shall be filed in the same manner as the compensation order. In case the payment in default is an installment of the award, the administrator may, at his discretion, declare the whole of the award as the amount in default. The applicant may file a certified copy of such supplementary payment in default as an installment of the award, the administrator may, at his discretion, declare the whole of the award as the amount in default. The applicant may file a certified copy of such supplementary order with the clerk of the Commonwealth Superior Court. Such supplementary order of the administrator shall be final, and the court shall, upon the filing of the copy, enter judgment for the amount declared in default by the supplementary order if such supplementary order is in accordance with law. Review of the judgment so entered may be had as in civil suits for damages at common law. Final

proceedings to execute the judgment may be had by writ of execution. No fee shall be required for filing the supplementary order nor for the entry of judgment thereon, and the applicant shall not be liable for costs in a proceeding for review of the judgment unless the court shall otherwise direct. The court shall modify such judgment to conform to any later compensation order upon presentation of a certified copy thereof to the court.

**Source:** PL 6-33, § 1 (§ 9327).

### **§ 9328. Procedure in Respect of Claims.**

(a) Subject to the provision of 4 CMC § 9322, a claim for compensation may be filed with the administrator in accordance with regulations prescribed by the commission at any time after the first four days following any injury, or at any time after death, and the administrator shall have full power and authority to hear and determine all questions in respect of such claim.

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

(c) The administrator shall cause to be made such investigations as he considers necessary in respect of the claim, and upon application of any interested party shall order a hearing thereon. If the hearing on such claim is ordered, the administrator shall give the claimant and other interested parties at least 10 days notice of such hearing, served personally upon the claimant and other interested parties or sent to such claimant and other interested parties by registered mail, and shall within 20 days after such hearing is had, by order, reject the claim or make an award in respect of the claim. If no hearing is held within 20 days after notice is given as provided in subsection (b) of this section, the administrator shall, by order, reject the claim or make an award in respect of the claim.

(d) At such hearing the claimant and the employer may each present evidence in respect of such claim and may be represented by any person authorized in writing for such purpose.

(e) The order rejecting the claim or making the award (referred to in this chapter as a compensation order) shall be filed in the office of the administrator, and a copy thereof shall be transmitted to the claimant and to the employer by delivery to them in person or by registered mail sent to their last known addresses.

(f) An award of disability benefits may be made after the death of an injured employee.

(g) An injured employee claiming or entitled to compensation shall submit to such physical examination, by a medical officer of the Department of Public Health, or by a qualified physician designated or approved by the commission, as the administrator may require. The place or places of such examination shall be reasonably convenient for the employee. Such physician or physicians as the employee, employer, or carrier may select and pay for may participate in an examination if the employee, employer, or carrier so requests. Proceedings shall be suspended and no compensation shall be payable for any period during which the employee refuses to submit to such examination.

**Source:** PL 6-33, § 1 (§ 9328).

**Commission Comment:** With respect to the reference to the “Department of Public Health,” see

Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001.

**§ 9329. Presumption.**

In any proceedings for the enforcement of a claim for compensation under this chapter, it shall be presumed, in the absence of substantial evidence to the contrary:

- (a) That the claim comes within the provisions of this chapter.
- (b) That sufficient notice of such claim has been given.
- (c) That the injury was not proximately caused by intoxication of the injured employee.
- (d) That the injury was not occasioned by the willful intention of the injured employee to injure or kill himself or another.

**Source:** PL 6-33, § 1 (§ 9329).

**Article 3. Review Procedures and Records.**

**§ 9330. Review of Compensation Order.**

(a) A compensation order shall become effective when filed in the office of the administrator as provided in 4 CMC § 9328, and unless an appeal to the commission is instituted as provided in subsection (b) of this section, shall become final at the expiration of the fifteenth day thereafter.

(b) Within 15 calendar days of the filing of a compensation award in the office of the administrator, any party in interest may file a notice of appeal with the commission. The payment of the amount required by an award shall not be stayed pending final decision in any such proceeding unless upon application for an interlocutory injunction the court, on hearing, after not less than three days notice to the parties in interest and the administrator, allows the stay of such payments, in whole or in part, where irreparable damage would otherwise ensure to the employer. The order of the court allowing any such stay shall contain a specific finding, based upon evidence submitted to the court and identified by reference thereto, that such irreparable damage would result to the employer, and specifying the nature of the damage.

(c) Any person filing a notice of appeal as provided in subsection (b) of this section shall at the same time file a written statement of objections to the administrator's decision. Any parties in interest may file an opposing statement within five business days of service upon them of the appellant's statement. Oral argument before the commission shall be permitted upon the written request of any party in interest to the appeal, or upon the commission's own request, and shall be confined to the written statements in support of or in opposition to the administrator's decision. A majority of the authorized number of directors of the Board of Trustees of the Northern Mariana Islands Retirement Fund shall be quorum, and a decision of the commission must be supported by a majority of the directors then in office. For the purpose of reviewing the administrator's decision, the commission shall consider only the record which was before the administrator; provided the commission may consider additional facts if they are supported by substantial evidence, could not upon reasonable inquiry have been discovered earlier, and could materially have affected the administrator's decision had they been known to the administrator at the time the decision was

rendered. Within 15 business days of the filing of the notice of appeal, the commission shall issue a written decision supported by written findings of fact and conclusions of law. The decision of the commission shall be a final administrative decision subject to judicial review.

(d) If any employer or its officers or agents fails to comply with a final order of the commission making an award, any beneficiary of such award of the administrator may apply to the Commonwealth Superior Court for enforcement of the order. If the court determines that the order was made and served in accordance with law and that such employer or his officers or agents have failed to comply therewith, the court shall enforce the order by injunction or other proper process.

(e) The provisions of the Administrative Procedure Act [1 CMC § 9101 et seq.] shall apply in any proceedings for suspending, setting aside, or enforcing a compensation order. In the event of any inconsistency between the provisions of this chapter and the provisions of the Administrative Procedure Act, the provisions of this chapter shall control. Except for a proceeding to suspend payment pending a final decision, no court proceeding may be brought until all available administrative remedies have been exhausted.

**Source:** PL 6-33, § 1 (§ 9330).

### **§ 9331. Modification of Awards.**

Upon his own initiative, or upon the application of any party in interest, on the ground of a change in conditions or because of a mistake in a determination of fact by the administrator, the administrator may, at any time prior to one year after the date of the last payment of compensation, whether or not a compensation order has been issued, or at any time prior to one year after the rejection of a claim, review a compensation case in accordance with the procedure prescribed in 4 CMC § 9328, and in accordance with the provisions of such section issue a new compensation order which may terminate, continue, reinstate, increase or decrease such compensation or award of compensation. Such new order shall not affect any compensation previously paid, except that an award increasing the disability benefits may be made effective from the date of injury, and any payment made prior to the time of the award in excess of such decreased rate shall be deducted from any unpaid disability benefits, in such manner and by such method as may be determined by the administrator with the approval of the commission.

**Source:** PL 6-33, § 1 (§ 9331).

### **§ 9332. Procedure Before the Administrator.**

(a) In making an investigation or inquiry or conducting a hearing the administrator shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by this chapter, but may make such investigation or inquiry, or conduct such hearing in such manner as to best ascertain the rights of the parties. Declarations, whether oral or written, of a deceased employee concerning the injury in respect of which the investigation or inquiry is being made or the hearing conducted shall be received in evidence and shall, if corroborated by other evidence, be sufficient to establish the injury.

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

**Source:** PL 6-33, § 1 (§ 9332).

**§ 9333. Witnesses.**

No person shall be required to attend as a witness in any proceeding before the administrator at a place outside the Commonwealth, but the testimony of any witness may be taken by deposition or interrogatories according to the rules of practice of the Commonwealth Superior Court.

**Source:** PL 6-33, § 1 (§ 9333).

**§ 9334. Witness Fees.**

Witnesses summoned in a proceeding before the administrator or whose depositions are taken shall receive the same fees and mileage as witnesses in the Commonwealth Superior Court.

**Source:** PL 6-33, § 1 (§ 9334).

**§ 9335. Costs in Proceedings Brought Without Reasonable Grounds.**

If the court having jurisdiction of proceedings in respect of any claim or compensation order determines that the proceedings in respect to such claim or order have been instituted or continued without reasonable ground, the costs and attorney's fees of such proceedings shall be assessed against the party who so instituted or continued such proceedings.

**Source:** PL 6-33, § 1 (§ 9335).

**§ 9336. Powers of the Administrator.**

(a) The administrator shall have the power to preserve and enforce order during proceedings before her or him; to issue subpoenas for, to administer oaths to, and to compel the attendance and testimony of witnesses, or for the production of books, papers, documents, and other evidence, or the taking of depositions before any designated individual competent to administer oaths; to examine witnesses; and to do all things conformable to law which may be necessary to enable the effective discharge of the administrator's duties.

(b) If any person in proceedings before the administrator disobeys or resists any lawful order or process, or misbehaves during a hearing at or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered to do so, any pertinent book, paper, or document, or refuses to appear after having been subpoenaed, or upon appearing refuses to take the oath as a witness, or after having taken the oath, refuses to be examined according to law, the administrator shall certify the facts to the Commonwealth Superior Court which shall thereupon in a summary manner hear the evidence and if in the judgment of the court, the evidence so warrants, punish such person in the same manner and to the same extent as for 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.

**Source:** PL 6-33, § 1 (§ 9336).

**§ 9337. Fees for Legal or Other Services.**

No claim for legal services or for any other services rendered in respect of a claim or award for

compensation, to or on account of any person, shall be valid for more than 15 percent of the total award of disability benefits and unless approved by the administrator, or if proceedings for review of the order of the administrator in respect of such claim or award are had before any court, unless approved by such court. Any claim so approved shall, in the manner and to the extent fixed by the administrator or such court, be a lien upon such disability benefits.

**Source:** PL 6-33, § 1 (§ 9337), modified.

### **§ 9338. Record of Injury or Death.**

Every employer shall keep a record of any injury to an employee. Such record shall contain such information of disease, other disability, or death in respect of such injury as the commission may by regulation require, and shall be available for inspection by the administrator or by other government authorities at such times and under such conditions as the commission may by regulation prescribe.

**Source:** PL 6-33, § 1 (§ 9338).

### **§ 9339. Reports.**

(a) Within 10 days of the date of any injury or death, or of the date that the employer has knowledge of such injury or of a disease or infection in respect to such injury, the employer shall send to the administrator a report setting forth:

- (1) The name, address, and business of the employer;
- (2) The name, address, and occupation of the employee;
- (3) The cause and nature of the injury or death or of the disease or infection arising from such injury;
- (4) The year, month, day and hour, and the particular locality where the injury or death occurred; and
- (5) Such other information as the commission may require.

A copy of such report shall be sent at the same time to the employee.

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

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

(d) The employer may comply with the obligations of this section by mailing any required report, with a copy thereof, first class and postage prepaid, to the administrator within the appropriate time limit prescribed in subsection (a) or (b) of this section.

(e) Any employer who fails or refuses to send any report required of it by this section shall be subject to a civil penalty not to exceed \$500 for each such failure or refusal.

(f) Where the employer or the carrier has been given notice, or the employer (or his agent in charge of the business in the place where the injury or death of an employee occurs) fails, neglects, or refuses to file a report thereof as required by the provisions of subsection (a) of this section, the limitations in 4 CMC § 9322(a) shall not begin to run against the claim of the injured employee or the employee's survivors entitled to compensation, or in favor of either the employer or the carrier,

until such report shall have been furnished.

**Source:** PL 6-33, § 1 (§ 9339).

## **Article 4. Compliance and Compensation.**

### **§ 9340. Penalty for Misrepresentation.**

Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining any benefit or payment under this chapter or for the purpose of evading liability for any benefit or payment under this chapter shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment not to exceed one year, or both.

**Source:** PL 6-33, § 1 (§ 9340).

### **§ 9341. Security for Compensation.**

(a) Every employer, except those specifically exempted by subsection (c) of this section, shall secure the payment of compensation under this chapter by insuring and keeping insured the payment of such compensation with an insurer granted by law a certificate of authority to transact general casualty insurance in the Commonwealth. However, the Commonwealth government may make compensation payments under the provisions of this chapter from the Government Employee's Self-insurance Fund referred to in 4 CMC § 9354 and need not otherwise secure compensation.

(b) An employer who pays more than one-half the cost of medical insurance for an employee as a benefit of employment shall be required to secure the payment of medical services and supplies provided for in 4 CMC § 9307 only to the extent that such payment is not secured by the aforementioned medical insurance.

(c) An employer whose principal place of business is in a United States jurisdiction other than the Commonwealth and who, by the terms of its **compensation** insurance policy, provides benefit coverage to all of its employees working in the Commonwealth that is at least equal to **worker compensation** benefits required by Commonwealth law, may apply to the commission for an exemption from subsection (a) of this section. The exemption shall be granted if the commission is satisfied that the requirements of this section and 4 CMC § 9353(c)(2) are met.

(d) Any employer who provides a letter of refusal for coverage under this chapter, from at least three carriers authorized to do business in the Commonwealth, may be allowed to secure such coverage from carriers not licensed in the Commonwealth. If the employer is still unable to secure the payment of compensation through carriers outside the Commonwealth, the commission shall, by regulation, establish procedures for self-insurance of such employers.

(e) Notwithstanding any other provision of law, any employer with at least 200 employees may elect to be self-insured. The commission, shall by regulation, establish requirements and procedures for self-insurance to govern self-insured private sector employers. Any employer who elects to be self-insured shall be subject to the requirements of such rules and regulations as the commission shall promulgate or amend from time to time.

(f) If the employer is authorized to be self-insured pursuant to subsection (d) of this section, or

elects to be self-insured pursuant to subsection (e) of this section, such employer shall pay into the Special Disability Fund pursuant to 4 CMC § 9353 an amount equal to one percent of the total salaries paid but not to exceed \$1,500. The salaries from which to determine the payment to the Special Disability Fund shall be made quarterly. The commission shall, by regulation, establish procedures for payment into the Special Disability Fund.

(g) Notwithstanding any other provisions of law, any employer or carrier who fails to remit or make required payments into the Special Disability Fund or the self-insurance fund as shall be established, shall be assessed a penalty of 10 percent per month or a fraction thereof, of the amount unpaid, not to exceed 50 percent in the aggregate, plus interest of 12 percent per annum.

**Source:** PL 6-33, § 1 (§ 9341); amended by PL 9-33, §§ 7, 8.

### **§ 9342. Compensation for Injuries Where Third Persons are Liable.**

The claim of an employee for compensation does not affect his claim or right of action for all damages proximately resulting from such injury or death against any person other than the employer. Any employer who pays, or becomes obligated to pay compensation, may likewise make a claim or bring an action against such third person and may recover in the same suit, in addition to the total amount of compensation, damages for which he was liable including all salary, wage, pension, or other emolument paid to the employee or to the employee's survivors.

If the employer shall recover from such other third person damages in excess of the compensation already paid or awarded to be paid under this chapter, then any such excess shall be paid to the injured employee, or other person entitled thereto, less the employer's expenses, including reasonable attorneys fees, and costs of action.

In the absence of a written agreement that provides otherwise, an alleged third party tortfeasor, named in a suit by an injured employee or on behalf of a deceased employee, may not obtain indemnification, reimbursement, or contribution from an employer in excess of the amounts for which this chapter mandates the employer compensate the injured or deceased employee.

**Source:** PL 6-33, § 1 (§ 9342).

### **§ 9343. Compensation Notice.**

(a) Every employer who has secured compensation under the provisions of this chapter shall keep posted in a conspicuous place in or about each of its places of business, typewritten or printed notices, in accordance with a form prescribed by the commission, stating that such employer has secured the payment of compensation in accordance with the provisions of this chapter. Such notices shall contain the name and address of the carrier with whom the employer has secured the payment of compensation and the date of the expiration of the policy. Notices shall be updated whenever coverage is renewed or when a carrier is changed.

(b) Failure of the employer to post all notices including updated notices required by this section shall be cause for the administrator to assess against such employer a civil penalty of \$100.

**Source:** PL 6-33, § 1 (§ 9343); amended by PL 9-33, § 9.

### **§ 9344. Substitution of Carrier for Employer.**

In any case where the employer is not a self-insurer, in order that liability for compensation imposed by this chapter may be most effectively discharged by the employer, and in order that the administration of this chapter in respect to such liability may be facilitated, the commission shall by regulation provide for the discharge, by the carrier for such employer, as it considers proper in order to effectuate the provisions of this chapter. For such purposes:

(a) Notice to or knowledge by an employer of the occurrence of the injury shall be deemed notice to or knowledge by the carrier,

(b) Jurisdiction over the employer by the administrator, the commission, or any court under this chapter shall be sufficient to confer jurisdiction over the carrier, and

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

**Source:** PL 6-33, § 1 (§ 9344), modified.

### **§ 9345. Insurance Policies.**

(a) Every policy or contract of insurance issued under authority of this chapter shall contain:

(1) A provision to carry out the provisions of 4 CMC § 9344, and

(2) A provision that the insolvency or bankruptcy of the employer or the employer's discharge in any insolvency or bankruptcy proceeding, or both, shall not relieve the carrier from payment of compensation for disability or death sustained by an employee during the period covered by such policy or contract.

(b) No contract or policy of insurance issued by a carrier under this chapter shall be canceled prior to the date specified in such contract or policy for its expiration until at least 30 days after a notice of cancellation has been sent to the administrator and to the employer in accordance with the provisions of 4 CMC § 9321(c).

(c) A coverage for **worker's compensation** secured by any employer required under this chapter, including renewals thereof, for which premium payment has not been made, shall be deemed to be effective within the grace period allowed by the carrier. Grace periods allowed by a carrier shall be in writing. However, notwithstanding the provision of subsection (b) of this section, any employer who:

(1) Fails to make the necessary premium payment, after reasonable notice of demand for payment, following such grace period as allowed, by the carrier, shall be deemed to have never secured the payment of compensation retroactive to the intended effective date of coverage; and, the carrier shall have the right to recover from the employer the cost of premium, on a pro rata basis, for the coverage provided during the grace period allowed such carrier.

(2) Has made partial payments for premium, and after reasonable notice of demand for full payment thereof, fails to make the required full payment, shall be deemed to be covered, on a pro rata basis, for only the period represented by such partial payments.

(d) The carrier adversely affected by subsection (c) of this section, shall have the right to cancel such coverage and shall notify the administrator of this cancellation in accordance with 4 CMC § 9321(c). The carrier shall be entitled to recover from such employer the premium cost which represents the coverage grace period.

**Source:** PL 6-33, § 1 (§ 9345); amended by PL 9-33, § 10, modified.

### **§ 9346. Certificate of Compliance With Law.**

(a) Every employer required to secure or renew **workers' compensation** coverage pursuant to this chapter shall file a certificate of compliance with the administrator within 30 days of becoming an employer, or renewal of **compensation**, or the renewal thereof, is secured as required in 4 CMC § 9341. Such certificate shall be a form prescribed by the commission.

(b) Failure to file such certificate within the time specified will result in the assessment by the administrator of failure to file within 30 days a civil penalty of \$100.

(c) The Secretary of Commerce shall not approve or renew a business license application to any employer as defined in this chapter who fails to submit, along with the application for business license, a certification from the administrator that compliance of this chapter has been met.

**Source:** PL 9-33, § 11 (repealing and reenacting PL 6-33, § 1 (§ 9346)).

**Commission Comment:** With respect to the reference to the “Secretary of Commerce,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the comment to 4 CMC § 9212.

### **§ 9347. Penalty for Failure to Secure Payment of Compensation.**

(a) *Civil Penalty.* The administrator shall assess any employer required to secure the payment of compensation under this chapter who fails to secure such compensation a civil fine of not more than \$100 per day for each day such failure continues. The assessment of penalty shall not commence until 30 days after the employer has received a first written notice from the administrator.

(b) *Criminal Penalty.*

(1) In addition to the other penalties provided for in this chapter, any employer required to secure payment of compensation or required to make payment of such compensation under this chapter, who fails to do so, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or both. Where such employer is a corporation, the president, secretary, and treasurer thereof shall be liable for imprisonment as provided herein, and shall be jointly and severally liable personally for such fine and for any compensation or other benefit which may accrue under this chapter in respect to any injury which may occur to any employee of such corporation during such time as it fails to secure the payment of compensation as required by 4 CMC § 9341.

(2) Any employer who knowingly transfers, sells, encumbers, assigns, or in any other manner disposes of, or who conceals, secretes, or destroys property belonging to such employer, after one of its employees has been injured within the purview of this chapter, with the intent to avoid the payment of compensation under this chapter to such employee or survivors of such employee, who are entitled to compensation, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or both. Where such employer is a corporation, the president, secretary, and treasurer thereof shall be liable for imprisonment as provided for herein, and shall be jointly

and severally liable personally for such fine.

(c) This section shall not excuse or diminish any other liability of the employer under this chapter.

**Source:** PL 6-33, § 1 (§ 9347); amended by PL 9-33, § 12.

**§ 9348. Interest, Penalties, and Waivers.**

(a) For failure to pay any civil penalty assessed, or the two percent of premium required under 4 CMC § 9353(c)(2), or other remittances pursuant to this chapter, within the time specified, the administrator shall assess in addition to the principal amount, an interest charge of 12 percent per annum on any unpaid penalty or penalties. Such interest charges shall be compounded on an annual basis.

(b) For good cause shown, the administrator may waive any assessed civil penalty.

**Source:** PL 9-33, § 13.

**Article 5. Workers' Compensation Commission and Miscellaneous.**

**§ 9351. Administration.**

(a) Except as otherwise specifically provided the **Workers' Compensation** Commission shall administer the provisions of this chapter, and for such purpose the commission may:

(1) Make rules and regulations in conformance with this chapter, including any requirements it reasonably determines are necessary to assure timely payment of compensation and reporting by insurance carriers of compensable injuries;

(2) Select technical assistants, medical advisors, officers, and employees, as it deems necessary; and

(3) Make from appropriated funds such expenditures (including expenditures for personal services, rent, law books of reference, periodicals, and printing, binding and other necessities) as it deems necessary for the proper administration of this chapter.

(b) The Board of Trustees of the Northern Mariana Islands Retirement Fund shall serve as the **Workers' Compensation** Commission. Whenever possible persons employed by the Northern Mariana Islands Retirement Fund shall also render services to the **Workers' Compensation** Commission. If any member of the commission is removed from office or for any reason ceases to act as a member, all of his official records and papers shall be transferred to the commission. No member nor any business associate of a member shall appear as attorney in any proceedings under this chapter, and no member shall act in any such case in which he has an interest, or when he is employed by any party in interest or related to any party in interest by consanguinity or affinity within the third degree as determined by the common law.

(c) The **workers' compensation** administrator shall be the administrator of the Northern Mariana Islands Retirement Fund or his designee, approved by a majority vote of the commission. The term of a designated administrator shall be four years. The administrator shall maintain and keep open a **workers' compensation** office during reasonable business hours.

**Source:** PL 6-33, § 1 (§ 9351).

**§ 9352. Investigations by the Commission.**

(a) The commission shall make studies and investigations with respect to safety provisions and causes of injuries in employment covered by this chapter, and shall from time to time make to the legislature and to employers and carriers recommendations of means to prevent such injuries.

(b) In making such studies and investigations, the commission may:

(1) Cooperate with any agency charged with the duty of enforcing any law securing safety against injury in any employment covered in this chapter, or with any agency engaged in enforcing any laws to assure safety for employees; and

(2) Permit any such agency to have access to the records of the commission. In carrying out the provisions of this section, the commission or any officer or employee of the commission is authorized to enter at any reasonable time upon the premises, tracks, wharf, dock, or to enter any building, where an employment covered by this chapter is being carried on, and to examine any tool, appliances, or machinery used in such employment.

**Source:** PL 6-33, § 1 (§ 9352).

**§ 9353. Special Disability Fund.**

(a) A Special Disability Fund is established in the Commonwealth for the purpose of making payments in accordance with the provisions of 4 CMC § 9308(f). Such fund shall be administered by the commission. The Treasurer of the Commonwealth shall be the custodian of the fund, and all monies and securities in the fund shall be held in trust by such Treasurer and shall not be money or property of the Commonwealth government.

(b) The Treasurer may disburse monies from such fund only upon order of the commission.

(c) Payments into the fund shall be made as follows:

(1) Each employer shall contribute \$10,000 for the death of an employee of such employer resulting from injury where the administrator determines that there is no person entitled, under this chapter, to disability benefits for such death;

(2) Each insurer providing security for payment of worker's compensation claims under this chapter shall annually pay two percent of the total premium paid for such security during the preceding year. Except, in any year in which the Special Disability Fund has sufficient monies to meet its actuarially predicted obligations, the commission may waive these payments by insurers; and

(3) All amounts collected as fines, penalties and interest charges under the provisions of this chapter shall be paid into the Special Disability Fund.

(d) The Commonwealth Treasurer shall deposit any monies paid into the fund into such depository banks as the commission may direct. The commission may invest any portion of the funds which is not needed for current requirements in bonds or notes of the United States or Commonwealth or of any insured Commonwealth bank.

(e) Neither the Commonwealth government nor the commission shall be liable in respect of payments authorized under 4 CMC § 9308 in an amount greater than the money or property deposited in or belonging to such fund. However, should the commission find that the present obligations of the fund exceed the fund balance, the commission shall immediately report such

deficit to the presiding officers of the legislature.

(f) The account for the fund shall be subject to audit in accordance with established auditing procedures of the Commonwealth government, but the action of the commission in making payments from such fund shall be final and not subject to review.

(g) Should the commission determine, based on the fund balance and the actuarially predictable obligations of the fund, that an excess of funds exists in the fund, then the commission may release such excess funds to the General Fund of the Commonwealth.

(h) Notwithstanding any other provision of law, the commission is authorized to transfer \$150,000 from the Special Disability Fund to the Government Self-Insurance Fund for expenses authorized by the commission for operation and maintenance, and payment of pending and future **workers compensation** claims. Henceforth, the commission is authorized to maintain this level of funding by the transfer of funds as authorized herein at the beginning of the fiscal year.

**Source:** PL 6-33, § 1 (§ 9353); amended by PL 9-33, §§ 14, 15.

#### **§ 9354. Commonwealth Government Self-Insurance Fund.**

(a) The legislature may establish, out of any money in the Commonwealth Treasury not otherwise appropriated, a fund sufficient to secure compensation payments under this chapter in respect of employees of the government, its agencies and instrumentalities, including any public corporation.

(b) The Commonwealth Treasurer shall be the custodian of such fund and may disburse monies from such fund only upon the order of the commission. The Commonwealth Treasurer shall deposit any monies appropriated or paid into such fund into such depository banks as the commission may designate, and may invest any portion of the funds which in the opinion of the commission is not needed for current requirements, in bonds or notes of the Commonwealth or United States of any insured Commonwealth bank.

(c) The account for such fund shall be subject to audit in accordance with established auditing procedures of the Commonwealth government, but actions of the commission in making payments from such fund shall be final and not subject to review.

(d) With respect to Commonwealth government employees, the commission may authorize direct compensation payments from such fund or, if it deems desirable, insure and keep insured the payment of such compensation with any stock company or mutual company or association.

**Source:** PL 6-33, § 1 (§ 9354).

#### **§ 9355. Annual Report.**

The commission shall make to the Commonwealth Legislature and the Governor at the beginning of each calendar year a report of the administration of this chapter for the preceding fiscal year, including a detailed statement of receipts of and expenditures from the funds established or authorized in 4 CMC §§ 9353 and 9354. Annually the commission shall advise the legislature and the Governor of needed changes in the laws of the Commonwealth regarding **compensation of workers** for injuries sustained while working and shall provide data from other jurisdictions on amounts of **compensation** payable therein.

**Source:** PL 6-33, § 1 (§ 9355).

**§ 9356. Effect of Unconstitutionality.**

If any part of this chapter is adjudged unconstitutional by the courts, and such adjudication has the effect of invalidating any payment of compensation under this chapter, the period intervening between the time the injury was sustained and the time of such adjudication shall not be computed as a part of the time prescribed by this chapter for the commencement of any action against the employer in respect of such injury; but the amount of any compensation paid under this chapter on account of such injury shall be deducted from the amount of damages awarded in such action in respect of such injury.

**Source:** PL 6-33, § 1 (§ 9356).

**§ 9357. Excess Coverage.**

Nothing in this chapter shall prevent an employer or employee from purchasing insurance coverage in addition to that coverage required by this chapter.

**Source:** PL 6-33, § 1 (§ 9357).