

COAL MINE WORKERS (PENSIONS).

6° Elizabeth II., No. XLIII.

No. 43 of 1957.

AN ACT to amend the Coal Mine Workers
(Pensions) Act, 1943-1955.

[Assented to 26th November, 1957.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Coal Mine Workers (Pensions) Act Amendment Act, 1957*.

Short title
and citation.

(2) In this Act the Coal Mine Workers (Pensions) Act, 1943-1955,

Reprinted
Acts, ol. 5.
Approved for
reprint,
2nd March,
1951.

Act No. 27 of 1943 as reprinted with amendments to and including Act No. 33 of 1950 incorporated pursuant to the Amendments Incorporation Act, 1938 and as further amended by Acts Nos. 33 of 1951 and 24 of 1955,

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Coal Mine Workers (Pensions) Act, 1943-1957.

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

S. 2
amended.

3. Section two of the principal Act is amended—

(a) by adding the passage, “; and” after the word, “contract” being the last word in paragraph (i) added to the first interpretation of the expression “Mine worker” by section four of Act No. 33 of 1951;

(b) by adding the paragraph designation, “(j)” before the second interpretation of the expression commencing with the words, “‘Mine worker’ also includes”; and

(c) by adding the following subsection:—

(5) Where a person

(a) satisfies the Tribunal that prior to the seventh day of January, one thousand nine hundred and forty-nine he was engaged or employed in the coal mining industry elsewhere than in the State under such comparable circumstances that had he been so engaged or employed in the coal mining industry in the State he would have been a mine worker according to the interpretation given to that expression by subsection (1) of this section;

Cf. par. (a)
of s. 3 of
No. 43 of
1943, as to
7th January,
1949.

- (b) satisfies the Tribunal that he is engaged or employed as a mine worker in the coal mining industry in the State, and was first so engaged or employed in this State on or after the seventh day of January, one thousand nine hundred and forty-nine;
- (c) satisfies the Tribunal that any interruption in the continuity of his engagement or employment in the coal mining industry elsewhere and as a mine worker in the State was attributable to reasonable time occupied in travelling to the State; and
- (d) complies with the requirements of section twenty-one B of this Act;

he shall be entitled as a mine worker to pension benefits and all other benefits under this Act as if in fact he had been engaged or employed in the coal mining industry in this State before that day.

4. Section nine of the principal Act is amended— S.9 amended.

- (a) by deleting the words, “an amount of ten shillings per week” in line one of paragraph (b) of subsection (1);
- (b) by deleting the words, “or children” in line three of that paragraph;
- (c) by deleting the words, “or step children” in lines four and five of that paragraph; and
- (d) by adding after the word, “years” being the last word in that paragraph, the passage, “—an amount of one pound per week for each such child or step child”.

S. 13
amended.

5. Section thirteen of the principal Act is amended—

(a) by adding after the section designation, “13”, the subsection designation, “(1)”; and

(b) by adding the following subsection:—

(2) Where payment in accordance with the provisions of this Act of any pension or other benefit would to any extent reduce any allowance payable under the Tuberculosis Act, 1948, of the Commonwealth Parliament, or under any Act enacted by that Parliament in amendment of, or substitution for that Act, the Tribunal shall to that extent withhold payment of the pension or benefit payable under this Act.

S. 21
amended.

6. Section twenty-one of the principal Act is amended by substituting for the words, “two years” in line seven of the first proviso to subsection (5), and again in line four of the second proviso to that subsection, the words, “one year”.

Ss. 21A and
21B added.

7. The principal Act is amended by adding after section twenty-one the following sections:—

21A. (1) The provisions of this section operate notwithstanding any of the other provisions of this Act in general, and notwithstanding any of the provisions of the second proviso to the interpretation, “Mine worker” in section two of this Act, or of subsection (5) of section twenty-one of this Act in particular.

(2) Where a person was first employed as a mine worker in the coal mining industry before the coming into operation of the Coal Mine Workers (Pensions) Act Amendment Act, 1957, or is first so employed after the coming into operation of that Act, before having in either case attained the age of thirty-five years,

- (a) if his employment as such was or is terminated after the day on which rights to seniority in employment were established by agreement made between mine workers and owners, namely the second day of December, one thousand nine hundred and fifty-four, because of retrenchment whether before or after attaining that age; and
- (b) if he has not been again employed as a mine worker in the coal mining industry within a period of one year or such longer period as the Tribunal approves and is hereby authorised to approve since the termination of his employment as such; and
- (c) if during such period of one year or such longer period, as the case may be, he has not refused re-employment as a mine worker in the coal mining industry except on grounds which the Tribunal approves and is hereby authorised to approve, as reasonable,

he shall, on making application to the Tribunal, be entitled, after the expiration of one year from the termination of his employment as such, to receive seventy-five per centum of the actual contributions paid by him under this Act during his employment as such, or, as the case may be, during his last period of employment as such since the previous refund, if any, of contributions so paid by him, but

- (d) if during such period of one year or such longer period, as the case may be, he is again employed as a mine worker in the coal mining industry; and
- (e) if he supplies the Tribunal with a prescribed certificate of a medical practitioner certifying that he is fit to be again so employed; and

- (f) if for a period of not less in the aggregate than twenty-five years he has paid contributions payable under this Act by a mine worker; and
- (g) he has not, after such termination of his employment because of retrenchment, received a refund of seventy-five per centum of the actual contributions paid by him under this Act;

he shall be entitled on complying with the requirements of this Act to pension benefits and all other benefits payable in accordance with the provisions of this Act.

(3) Where a person employed, whether before or after the coming into operation of the Coal Mine Workers (Pensions) Act Amendment Act, 1957,

- (a) has attained the age of fifty-seven years;
- (b) has his employment as such terminated, because of retrenchment, after the second day of December, one thousand nine hundred and fifty-four and after attaining the age of fifty-seven years but before attaining the age of sixty years; and
- (c) has paid contributions payable under this Act by a mine worker
 - (i) for a period commencing either on the first day of July or the twenty-first day of July, one thousand nine hundred and forty-four, and ending with the termination of his employment; or
 - (ii) for a period of twenty-five years; whichever of those periods is the shorter;

he shall, on attaining the age of sixty years, be entitled to pension benefits and all other benefits under this Act, as if his employment had not been terminated until he had attained the age of sixty years.

(4) During the period commencing with such termination of employment and ending with re-employment, if any, of a person mentioned in subsection (2) or subsection (3) of this section as a mine worker, neither the person nor the owner of any coal mine in which he was employed or is re-employed is liable for payment of contributions which, were he employed during the period, would be payable.

21B. (1) In this section

“arrears” means the amount of contributions payable under this section in respect of the concessional period;

Requirements for entitlement under subs. (5) of s. 2.

“concessional period” means period commencing on the eighth day of January, one thousand nine hundred and forty-nine and ending on the day next preceding that of commencement of employment in the State as a mine worker; and

Cf. par. (a) of s. 3 of No. 43 of 1948 as to 8th January, 1949.

“mine worker” means a person who has satisfied the Tribunal as to the matters mentioned in paragraphs (a), (b) and (c) of subsection (5) of section two of this Act and who, on complying with the requirements of this section, shall be entitled to pension benefits and all other benefits under this Act.

(2) The requirements which are referred to in paragraph (d) of subsection (5) of section two of this Act, and on compliance with which, a person is entitled as a mine worker to pension benefits and all other benefits under this Act are,

(a) that arrears be paid into the Fund;

(b) that contributions accruing from time to time after the concessional period ends be paid into the Fund; and

- (c) that all other requirements of this Act, as affected by the provisions of subsection (5) of section two of this Act and to the provisions of this section, be complied with.

(3) Arrears are payable into the Fund in such instalments, of such amount, and at such times, as the Tribunal from time to time determines and is hereby authorised to determine, but shall be paid in full within a period of three years from the day appointed by the Tribunal for payment of the first instalment.

(4) (a) If and when under section four of this Act any other State is declared to be a reciprocating State and an agreement is made by this State with that State, then if pursuant to the agreement the reciprocating State pays into the Fund amounts equal to and representing arrears already paid into the Fund, the Tribunal shall refund the arrears in accordance with the provisions of paragraph (b) or, if the case requires, paragraph (c) of this subsection.

(b) This section does not impose any obligation on an owner as employer of a mine worker to pay any part of the arrears into the Fund, but if the owner has paid the whole or any part of the arrears into the Fund, the Tribunal shall as soon as practicable after the reciprocating State has made the payment into the Fund, refund to the owner or his personal representatives, or assigns, or if the owner is a company to the company or its successors and assigns, the amount of arrears paid into the Fund by the owner.

(c) If the mine worker has paid the whole or any part of the arears into the Fund, the Tribunal shall as soon as is practicable after the reciprocating State has made the payment into the Fund, refund to the Mine worker, or to his widow, or personal representatives, or assigns, the amount of arrears paid into the Fund by the mine worker.

(5) Where an agreement is not made under section four of this Act, then if the mine worker resigns or is dismissed from the coal mining industry in this State in circumstances which do not entitle him to a pension under any of the provisions of this Act, and if an amount inclusive of arrears equal to contributions for a period of at least ten years has been paid into the Fund, the Tribunal, irrespective of the cause of his resignation or dismissal shall refund to the mine worker or to his widow, or personal representatives, or assigns;

- (a) an amount equal to seventy-five per centum of such part of the arrears as would have been payable as mine worker's contributions during the concessional period had the mine worker been employed in the coal mining industry in this State for the whole of the concessional period;
 - (b) plus an amount equal to seventy-five per centum of such part of the arrears as would have been payable as owner's contributions during the concessional period had the mine worker been employed in the coal mining industry in this State for the whole of the concessional period, but which contributions were in fact paid by the mine worker;
 - (c) plus an amount equal to seventy-five per centum of the contributions paid by the mine worker as mine worker's contributions exclusive of arrears.
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