

## COAL MINE WORKERS (PENSIONS).

14° and 15° Geo. VI., No. XXXIII.

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No. 33 of 1950.

**AN ACT to amend the Coal Mine Workers (Pensions) Act, 1943-1949.**

[Assented to 16th December, 1950.]

**BE** it enacted by the King'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:—

Short title.

1. This Act may be cited as the *Coal Mine Workers (Pensions) Act Amendment Act, 1950*, and shall be read as one with the *Coal Mine Workers (Pensions) Act, 1943-1949* (Act No. 27 of 1943, as amended by Nos. 33 of 1944, 15 of 1947, 43 of 1948 and 38 of 1949), hereinafter referred to as the principal Act.

Citation of principal Act as amended by this Act.

2. The principal Act, as amended by this Act, may be cited as the *Coal Mine Workers (Pensions) Act, 1943-1950*.

3. Section two of the principal Act is amended <sup>Amendment</sup> <sub>of s. 2.</sub>  
by—

(a) inserting after the word “years” in line fourteen of paragraph (g) of the definition of “Mine worker” in subsection (1), a new paragraph as follows:—

(h) a person who, in the opinion of the tribunal, is employed, whether by way of a service agreement or by way of sub-contract, in or about an open cut by a contractor who contracts with an owner for the excavation or the removal of overburden or the winning of coal from an open cut, or a person who is so employed in or about a coal mine by a contractor who contracts for the working of any coal mine or any part thereof.

“Mine worker” also includes and shall be deemed always as from the first day of July, one thousand nine hundred and forty-four, to have included a superintendent, manager or under manager, and further, includes and shall be deemed always as from the twenty-first day of July, one thousand nine hundred and forty-four, to have included a male person engaged full time in clerical work in connection with a coal mine; but the term “mine worker” shall not include a person who is a director of a company which is the owner of a coalmine;

- (b) deleting the dash thus “—” and paragraphs (i) and (ii) and the figure three in brackets, thus “(iii)” after the word “include” in line three of the first proviso to the definition of “Mine worker” in subsection (1); and
- (c) deleting the dash and the figure one in brackets thus “(1)” after the word “include” in lines three and four of the second proviso to the definition of “Mine worker” in subsection (1); and

- (d) deleting paragraph (ii) of the second proviso to the definition of "Mine worker" in subsection (1).

Amendment  
of s. 3.

4. Section three of the principal Act is amended by inserting after the words "for any continuous period not exceeding twelve months" (inserted after the word "fault" in line three of subsection (2) by section four of the Coal Mine Workers (Pensions) Act Amendment Act, 1948), the words "or such further period as the tribunal may in any case determine".

Amendment  
of s. 4.

5. Section four of the principal Act is amended by deleting the words "and that such pensions are of the like amount and are awarded on the like conditions as the pensions for which provision is made in this Act" in lines four, five, six and seven of paragraph (a) of subsection (1).

Amendment  
of s. 6.

6. Section six of the principal Act is amended by—

- (a) substituting for the words "twelve shillings and sixpence" (inserted after the word "pounds" in line eleven of subsection (1) by section five of the Coal Mine Workers (Pensions) Act Amendment Act, 1948) the words "fifteen shillings";
- (b) substituting for the words "two shillings and sixpence" in line nine of subsection (2) the words "fifteen shillings"; and
- (c) substituting for the words "two shillings and sixpence" in lines four and five of subsection (3), the words "fifteen shillings".

Amendment  
of s. 7.

7. Section seven of the principal Act is amended by—

- (a) substituting for the words "twelve shillings and sixpence" (inserted after the word "pounds" in line two of subsection (1) by section six of the Coal Mine Workers (Pensions) Act Amendment Act, 1948) the words "fifteen shillings";

- (b) inserting after subsection (1) a new subsection as follows:—

(1A) (a) A mine worker shall, subject to this section, be eligible for a pension of two pounds fifteen shillings per week if he proves to the satisfaction of the tribunal—

- (i) that he is permanently incapacitated for work; and
- (ii) that by reason of such incapacity he is unable to continue in employment as a mine worker; and
- (iii) that he has been engaged in the coal mining industry in this State for a period of not less than twenty years in all; and
- (iv) that he has paid contributions for a continuous period of not less than five years immediately preceding the cessation of his employment as a mine worker by reason of such incapacity.

(b) A mine worker shall be deemed to be permanently incapacitated for work if the degree of his permanent incapacity for work is not less than eighty-five per centum.

(c) The tribunal may require any applicant for a pension under this subsection to submit himself to a Medical Board for examination as to the degree of incapacity.

(d) A mine worker shall not be eligible for a pension under this subsection where the permanent incapacity is, in the opinion of the tribunal, due to his own fault;

- (c) inserting after the figure “(1)” in line two of subsection (2) the words “or subsection (1A)”;
- (d) inserting after the word “shall” in line five of subsection (2) the words “, until he attains the age of sixty years,”; and

- (e) substituting for the words "the said subsection" in line four of subsection (2) the words "subsection (1) or subsection (1A) of this section".

Amendment  
of s. 8.

8. Section eight of the principal Act is amended by—

- (a) inserting after the word "pension" in line two of subsection (1) the words, "of two pounds fifteen shillings per week"; and  
(b) substituting for subsection (2) the following subsection:—

(2) Where a mine worker is awarded a pension pursuant to subsection (1) of this section, and—

(a) where the pension is awarded on the ground of partial incapacity, or

(b) where the pension was awarded on the ground of total incapacity and subsequently thereto the pensioner has so far recovered as to be fit for employment of the character hereinafter in this subsection referred to,

then in any such case the total amount payable to him as pension (being the amount payable pursuant to the said subsection and any amounts payable pursuant to section nine of this Act) shall until he attains the age of sixty years, be reduced by the average weekly amount which he earns or which the tribunal finds he might reasonably earn from available employment not inconsistent either in itself or by reason of the conditions under which it is performed with the maintenance of his health.

Amendment  
of s. 9.

9. Section nine of the principal Act is amended by—

- (a) substituting for the words "one pound seventeen shillings and sixpence" in line one of paragraph (a) of subsection (1) the words, "two pounds two shillings and sixpence";

- (b) substituting for paragraph (b) of subsection (1) the following paragraph:—
  - (b) an amount of ten shillings per week while he has totally or mainly dependent on his earnings any child or children (whether legitimate or illegitimate) or step child or step children under in either case the age of sixteen years;
- (c) substituting for the words “one pound twelve shillings and sixpence” in lines two and three of paragraph (c) of subsection (1) the words, “two pounds two shillings and sixpence”;
- (d) deleting the words, “relative of the mine worker” in lines three and four of paragraph (c) of subsection (1);
- (e) substituting for the words “is over the age of sixteen years” in line four of the proviso to paragraph (c) of subsection (1) the words “is—
  - (i) an adult who is caring for any child or step child of the mine worker under the age of sixteen years; or
  - (ii) a member of the mine worker’s family and is over the age of sixteen years; or
  - (iii) over the age of sixteen years and is, in the opinion of the tribunal, a relative of the mine worker.”;
- (f) by inserting after subsection (2) new subsections as follows:—
  - (3) Notwithstanding anything contained in subsection (1) of this section, the tribunal may, in its discretion, award or continue an addition to a pension under paragraph (b) of that subsection in respect of any child who has attained the age of sixteen years if by reason of any physical or mental defect such child is totally incapacitated from earning a living.

(4) Notwithstanding anything contained in subsection (1) of this section, the tribunal may, in its discretion, for the purpose of assisting in the further education of any child of the mine worker who is of or above the age of sixteen years, award or continue an addition to a pension under paragraph (b) of that subsection in respect of such child for such period not exceeding two years after the child has attained the age of sixteen years as it may think fit.

(5) Notwithstanding anything contained in any other provision of this section, the tribunal may, if in the circumstances of any case it thinks fit so to do, regard as a child for the purposes of this section any child who, though not within the relationships mentioned in this section, is maintained as a member of the family of a mine worker.

(6) Where a mine worker, who becomes eligible for or has been awarded a pension under section six, section seven or section eight of this Act, proves to the satisfaction of the tribunal that his wife is an invalid and that by reason thereof he employs a female over the age of sixteen years (whether or not such female is a member of the mine worker's family) to care for his wife or for any child or step child of the mine worker under the age of sixteen years, the tribunal may award to the mine worker in lieu of the amount referred to in paragraph (a) or paragraph (c) of subsection (1) of this section an addition to his pension of an amount of one pound ten shillings per week in respect of such female.

Amendment  
of s. 10.

10. Section ten of the principal Act is amended by—

- (a) inserting after the word "pounds" in line fourteen of subsection (1) the words "five shillings";

- (b) inserting after the word "Act" in line eighteen of subsection (1) the words "and in subsections (3), (4) and (5) of that section";
- (c) substituting for subsections (2), (3) and (4) new subsections as follows:—

(2) (a) The tribunal may, in its discretion, award a pension of two pounds five shillings per week to—

- (i) the widow of a mine worker whose death occurred after the first day of July, one thousand nine hundred and forty-four, but before the commencement of the *Coal Mine Workers (Pensions) Act Amendment Act, 1950*, such pension to be payable on and from the commencement of the first pension pay period after the commencement of the said Act; or
- (ii) the widow of a mine worker whose death occurs after the commencement of the said Act where it is proved to the satisfaction of the tribunal that such mine worker has made contributions to the *Coal Mine Workers' Pensions Fund* for a period of not less than five years in all.

(b) A pension awarded under this subsection shall be payable until the death or remarriage of such widow, and the persons referred to in paragraph (b) of subsection (1) of section nine of this Act and in subsections (3), (4) and (5) of that section shall also be eligible for pensions of an amount in each case equal to the respective amounts referred to in that paragraph and those subsections and for the periods specified in that paragraph and those subsections.



(3) (a) Where the tribunal is satisfied that a female is recognised as the wife of a mine worker although not legally married to him, the tribunal may, in its discretion, award—

- (i) an addition of two pounds two shillings and sixpence per week under section nine of this Act to the pension of such mine worker as if such female were the wife of such mine worker; or
- (ii) a pension of two pounds five shillings per week to such female upon the death of the mine worker or pensioner as if such female were the widow of the mine worker, where it is proved to the satisfaction of the tribunal that the mine worker has made contributions to the Coal Mine Workers' Pensions Fund for a period of not less than five years in all:

Provided that no such award shall be made where an addition under section nine of this Act or a pension under section ten of this Act has been awarded in respect of or to the wife or widow of such mine worker or pensioner.

(b) Any addition to a pension awarded under this subsection shall not be payable in respect of any period prior to the commencement of the first pay period after the commencement of the Coal Mine Workers (Pensions) Act Amendment Act, 1950.

(c) Subject to subsection (4) of this section any pension awarded to a female under this subsection shall be payable until the death, marriage or re-marriage of such female.

(4) Notwithstanding anything contained in this section, where a female (other than a widow of a mine worker) who has been awarded a pension under

subsection (1) or subsection (3) of this section has not attained the age of thirty years at the date of such award, the pension payable to such female shall cease to be payable upon the expiration of a period of twelve months after the date of such award or such further period as the tribunal may in any case from time to time determine.

11. Section ten A of the principal Act is amended by—

Amendment  
of s. 10A.

- (a) substituting for the words “or under the last preceding section” (inserted after the word “Act” in line two of subsection (1) by section ten of the Coal Mine Workers (Pensions) Act Amendment Act, 1948) the words “or any person who has been awarded a pension under either section seven or section eight of this Act and who is over the age of sixty years”; and
- (b) deleting the words “the sum of such pension and” in line six of subsection (2).

12. Section eleven of the principal Act is amended by deleting subsection (3).

Amendment  
of s. 11.

13. Section twelve of the principal Act is amended by substituting for the subparagraph after the word “follows—” in line nine of paragraph (b) of subsection (2) a new subparagraph as follows:—

Amendment  
of s. 12.

The period shall commence on and from the day following the day on which weekly payments of compensation ceased or the day on which the mine worker ceased work as a result of the injury for which compensation under that Act became payable, as the case may be, and shall continue during the number of weeks and part of a week ascertained by dividing the amount payable in accordance with the said table or the amount of the lump sum, as the case may be, by the maximum weekly amount of compensation payable under the said Act: Provided that any period of disqualification imposed and continuing at the commencement

of the Coal Mine Workers (Pensions) Act Amendment Act, 1950, shall be cancelled and the period of disqualification shall be ascertained in accordance with this subsection: Provided further that where the period of disqualification so ascertained would have expired before the said commencement of that Act, the disqualification shall be deemed to have ceased on the day immediately preceding the said commencement of that Act.

Amendment  
of s. 13.

14. Section thirteen of the principal Act is amended by—

- (a) substituting for the words “invalid, widows and old age pension” in lines three and four the words “age, invalid or widow’s pension under the Social Services Consolidation Act 1947-1948 of the Parliament of the Commonwealth or any Act amending or in substitution for that Act”;
- (b) deleting the words “or as endowment under the Commonwealth Social Services Consolidation Act, 1947” in lines four and five; and
- (c) inserting after the word “Act” in line thirteen the following:—“Provided that where the deduction of any amount which a mine worker or his dependants has or have received or, upon application, is or are entitled to receive from any such age, invalid or widow’s pension would reduce the amount payable under this Act to an amount under five shillings per week, the minimum amount payable to him or them shall be five shillings per week, payable on and from a date to be determined by the Tribunal. Provided also that any addition to a pension payable under and pursuant to paragraph (b) of subsection (1) of section nine and subsection (3), subsection (4) and subsection (5) of section nine shall be paid in addition to the said five shillings.”

15. The principal Act is amended by inserting after section thirteen a new section as follows:—

Insertion of new s. 13A.

13A. (1) Notwithstanding anything elsewhere in this Act contained the Governor may from time to time by Proclamation increase or decrease the amount of the pensions or any class of pensions or the additions to any pensions or any class of such additions payable pursuant to the provisions of this Act.

Governor may by regulation vary amount of pensions payable.

(2) The Governor may by a subsequent Proclamation vary, amend or cancel any Proclamation made under this section.

(3) Any Proclamation made under this section shall take effect as if the same had been enacted by Parliament as an amendment to the principal Act as from the date of the publication thereof in the *Government Gazette* or from such other date either prior or subsequent to such date of publication as is specified in the Proclamation, and section six, section seven, section eight, section nine or section ten of this Act as the case may be shall as from that date be deemed to be amended accordingly.

16. The principal Act is amended by inserting after section seventeen a new section as follows:—

Insertion of new section 17A.

17A. (1) The Tribunal shall be a body corporate under the name of the Coal Mine Workers' Pensions Tribunal, having perpetual succession and a common seal.

Tribunal a body corporate.

(2) The seal of the Tribunal shall not be affixed to any document except pursuant to a resolution of the Tribunal and shall be authenticated by the signatures of two members of the Tribunal.

17. Section twenty of the principal Act is amended by—

Amendment of s. 20.

(a) inserting after the word "funds" in line four of subsection (5) the words "or in any debentures or other securities issued or given by any corporate body constituted or established by any law of the Commonwealth of Australia or of any State of the said Commonwealth which authorises the issue of such debentures or the giving of

such other securities and provides that the said debentures or other securities are guaranteed by the Government of the Commonwealth or of the State, as the case may be, under the laws whereunder the said debentures are issued or the said other securities are given as aforesaid"; and

- (b) by inserting after subsection (5) a new subsection as follows:—

(6) Notwithstanding anything elsewhere contained in this Act or in any law of the State, any moneys payable to any person or persons as refunds of contributions or excess contributions, or pensions, which are not claimed before the expiration of a period of six years from the date on which they respectively became or become payable under this Act shall be paid into the Fund.

Amendment  
of s. 21.

18. Section twenty-one of the principal Act is amended by—

- (a) substituting for the words "thirtieth day of June, 1950," in lines three and four of paragraph (c) of subsection (2), the words "fifth day of January, 1951,";
- (b) inserting after paragraph (c) of subsection (2) a new paragraph as follows:—
- (d) From and after the sixth day of January, 1951, and until the rates shall be amended by a Proclamation made under subsection (8) of this section, but subject to subsection (5) of this section, the rates of contribution payable by each mine worker and by each owner in respect of each mine worker employed by such owner shall be respectively four shillings and four pence per week and ten shillings and ten pence per week;
- (c) deleting paragraph (c) of subsection (3);

- (d) inserting after the first proviso to the second paragraph of subsection (5) a new proviso as follows:—

Provided further that if such mine worker has made regular contributions to the Fund for a period of ten years and before the expiration of the aforesaid period of two years from the date of the termination of his service, he is again employed as a mine worker, a refund under this subsection shall not be made and his previous period of service shall be taken into account for the purpose of determining his eligibility to receive a pension under this Act;

- (e) deleting the words “subparagraph (i) of” in line seven of paragraph (a) of subsection (7);
- (f) deleting the words “paragraph (g) of” in line eight of paragraph (a) of subsection (7);
- (g) substituting for the words “subsections (2) and (3)” in lines fourteen and fifteen of paragraph (a) of subsection (7) the words “subsection (2)”;
- (h) substituting for the words “The persons referred to in paragraph (a) of this subsection as included in the term ‘mine worker’” in lines one, two and three of paragraph (b) of subsection (7) the words “A person referred to in paragraph (a) or paragraph (b) of the second proviso to the definition of ‘mine worker’ in section two of this Act who is over the age of thirty-five years when so employed”; and
- (i) inserting after paragraph (c) of subsection (7) a new paragraph as follows:—

(d) A person referred to in paragraph (b) of the second proviso to the definition of “mine worker” in section two of this Act who is not over the age of thirty-five years when so employed shall be eligible for—

- (i) retirement pension benefits under and in accordance with section six of this Act; or

- (ii) invalidity pension benefits under and in accordance with section seven of this Act: Provided that either he has made regular contributions to the Fund for a period of ten years or he has passed the prescribed medical examination before the expiration of a period of ten years after the date when he is so employed; or
  - (iii) a refund under and in accordance with subsection (5) of this section of seventy-five per centum of the amount of contributions actually paid by him where his services are terminated before he has attained the age of sixty years;
- (j) inserting after subsection (7) a new subsection as follows:—

(8) (a) Notwithstanding anything in this section contained but subject to subsection (5) of this section, the Governor may from time to time by Proclamation increase or decrease the rates of contribution payable by each mine worker or by each owner in respect of each mine worker employed by such owner as fixed in paragraph (d) of subsection (2) of this section.

(b) The Governor may by a subsequent Proclamation vary, amend or cancel any Proclamation made under this subsection.

(c) Any Proclamation made under this subsection shall take effect as if the same had been enacted by Parliament as an amendment to the principal Act as from the date of the publication thereof in the *Government Gazette* or from such other date either prior or subsequent to such date of publication as is specified in the Proclamation and paragraph (d) of sub-

section (2) of this section shall as from that date be deemed to be amended accordingly.

19. The principal Act is amended by inserting after section twenty-three a new section as follows:—

Insertion of new section 23A.

23A. Notwithstanding anything elsewhere contained or implied in this Act, the Tribunal may, on or after the commencement of the Coal Mine Workers (Pensions) Act Amendment Act, 1950, discontinue the payment of or refuse to award a pension under section six, section seven or section eight of this Act or an addition to a pension under section nine of this Act to any person who is not either a natural born or naturalised subject of His Majesty the King: Provided that where the payment of such pension or addition has been discontinued or refused, as the case may be, and such person subsequently becomes a naturalised subject of His Majesty the King, the Tribunal shall, subject to this Act, re-instate the payment of such pension or addition, or award such pension or addition, as the case may be, from a date to be determined by the Tribunal.

Pensions to persons not British subjects may be discontinued or refused.

20. Section twenty-four of the principal Act is amended by inserting after the third paragraph of the section a proviso as follows:—

Amendment of s. 24.

Provided that any miner who, at the commencement of the Coal Mine Workers (Pensions) Act Amendment Act, 1950, is in receipt of a pension under this section and who has not, at the date of such commencement, lodged an application at the office of the tribunal for a pension under section six, section seven or section eight of this Act, shall not be eligible for a pension under any of those sections.

21. The principal Act is amended by inserting after section twenty-six a new section as follows:—

Insertion of new section 26A.

26A. Where a pension or any addition to a pension is at the commencement of the Coal Mine Workers (Pensions) Act Amendment Act, 1950, payable under the principal Act, any

Retrospective payment of increases to pensions or additions.



increase in the amount of such pension or in the amount of such addition payable by virtue of the provisions of the Coal Mine Workers (Pensions) Act Amendment Act, 1950, shall be payable on and from the first day of July, 1950, or from the date when such pension or addition as the case may be, was awarded, whichever is the later.

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