

MINE WORKERS' RELIEF.

24° GEO. V., No. XXXIV.

No. 34 of 1933.

AN ACT to amend the Mine Workers' Relief Act, 1932.

[Assented to 27th December, 1933.]

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

1. This Act may be cited as the *Mine Workers' Relief Act Amendment Act, 1933*, and shall be read as one with the Mine Workers' Relief Act, 1932 (No. 37 of 1932), hereinafter referred to as the principal Act. Short title.

2. Section three of the principal Act is amended by adding at the end of subsection (1) a proviso as follows:— Amendment of s. 3.

Provided that where, prior to the commencement of this Act, the Minister administering the Miner's Phthisis Act, 1922, had arranged with any person, then found to be suffering with tuberculosis and liable to be prohibited under section eight of the said Act, to refrain from prohibiting such person under the said section whilst he continued to be employed on the surface of a mine on work which he was able to perform but to prohibit such person under the said section in the event of such person subsequently becoming incapacitated for work or ceasing work at a mine by reason of the tuberculosis from which he was previously found to be suffering as aforesaid or

by reason of any other cause which the Minister deems sufficient, then such person shall be deemed to be a person, in relation to whom the question has arisen and is in course of being determined at the commencement of this Act whether or not such person shall be prohibited from employment under the said section eight, under and within the meaning of subsection (1) of this section, and, notwithstanding anything to the contrary in such subsection or in this Act contained, such person may, at any time after the commencement of this Act, be prohibited from employment under section eight of the said Miner's Phthisis Act, 1922, which shall continue to apply to such person.

Amendment
of s. 13.

3. Section thirteen of the principal Act is amended by deleting subsection (2) and inserting in lieu thereof subsections, as follows:—

(2.) A person shall be deemed to be a mine worker within the meaning and for the purposes of subsection (1) of this section, if he was lawfully employed as a mine worker at any time within the period of twelve months next preceding the commencement of this Act, or on or at any time after the commencement of this Act, and also was so employed within the period of twelve months next preceding the date of a certificate that he is suffering from tuberculosis given by a medical officer or a medical practitioner appointed under this Act or by the laboratory.

(2A.) Subsection (1) of this section shall apply to any person who, whilst a mine worker within the meaning of the Act, is medically examined under the Act and found to be suffering from silicosis with tuberculosis or tuberculosis without silicosis, but who dies before notice of prohibition under subsection (1) of this section has been served upon him; and in such case such notice of prohibition may be issued by the Minister, notwithstanding that such mine worker shall have previously died, and when issued shall be published in the *Government Gazette*, and when so published shall be deemed to have been served both upon the deceased mine worker and his employer at the time of his medical examination aforesaid if the deceased person was then employed as a mine worker. Upon notice of prohibition being published as aforesaid, the dependants of the deceased mine worker

shall be entitled to all the benefits under this Act and the Workers' Compensation Act, 1912-1924, to which they would have been entitled as such dependants if the deceased mine worker had not died until after notice of prohibition under subsection (1) of this section had been served upon him personally

4. Section twenty-seven of the principal Act is amended by adding thereto a subsection as follows:— Amendment
of s. 27.

(4.) Any person who is receiving any benefit under this Act shall be disqualified from becoming or continuing to be a member of the Board.

5. Section thirty-four of the principal Act is amended by inserting after the figures "1903-1930" in the last line, the words "or receives any benefit under this Act." Amendment
of s. 34.

6. Section forty-seven of the principal Act is amended as follows:— Amendment
of s. 47.

(a) by deleting from subsection (1) the words "as from the date of the prohibition or the notice, as the case may be," in lines six and seven of the said subsection;

(b) by inserting, after subsection (1), a subsection as follows:—

(1a) Where a mine worker is entitled to workers' compensation under and by virtue of subsection (1) of this section, the commencing dates for the computation of the weekly payments of such workers' compensation shall, subject to subsection (2) of this section, be as follows:—

(a) the day following the day upon which the mine worker ceases work, if he is employed as a mine worker at a mine on the date of the prohibition or the notice, as the case may be;

(b) the day following the day upon which the mine worker ceases work, if he is employed as a mine worker at a mine after the date of his medical examination under this Act, which resulted in his being prohibited or notified as aforesaid, and is not so employed on the date of such prohibition or notice, as the case may be;

- (e) the day of his medical examination under this Act, which resulted in his being prohibited or notified as aforesaid, if the mine worker is not employed as a mine worker at a mine after the date of such examination and at the date of the said prohibition or notice, as the case may be.

Amendment
of s. 48

7. Section forty-eight of the principal Act is amended as follows:—

- (a) by deleting from the second proviso to subsection (1) the words “otherwise than with the consent of the mine worker,” in lines four and five of the said proviso; and inserting in lieu thereof the words “on the application of the employer; and that where a mine worker receives a lump sum payment in redemption of weekly workers’ compensation either by mutual agreement with the employer or as ordered by the local court on the application of the mine worker, the mine worker, notwithstanding that he has received such payment, shall not be deemed to have received such compensation in full until the expiration of the period which would have elapsed while he was receiving by weekly payments of compensation the total sum of seven hundred and fifty pounds”;
- (b) by deleting the last proviso to subsection (1), and inserting in lieu thereof a proviso as follows:—

Provided further, that where a mine worker referred to in subsection (1) of this section is receiving his workers’ compensation by weekly payments in accordance with the said Act, and the circumstances are such that fifty per centum of his average weekly earnings as ascertained in accordance with the provisions of the First Schedule to the said Act together with the sum of seven shillings and sixpence for each child under sixteen years of age as allowed by the said Act exceeds in the aggregate the maximum weekly payment of three pounds ten shillings per week payable under the said Act, the Board may, if it is of the opinion that such mine worker’s case is one of extreme hardship, grant and pay out of the Fund to such mine worker, while he continues to receive his

weekly payments of workers' compensation, a weekly allowance of an amount not exceeding the difference between the sum of three pounds ten shillings and the amount of the basic wage from time to time ruling in the district in which the mine worker was residing at the date of his medical examination under this Act which resulted in his being prohibited or notified as aforesaid.

8. Section forty-nine of the principal Act is amended as follows:—

Amendment
of s. 49.

- (a) by deleting from subsection (1) the words "as from the date of the prohibition" in lines thirteen and fourteen of the said subsection.
- (b) by deleting the whole of paragraph (a) of subsection (1), and inserting in lieu thereof a paragraph as follows:—
 - (a) Subject as hereinafter provided, a weekly sum to be fixed by the Board, not exceeding one-half of the weekly rate of pay which the mine worker was receiving as a mine worker at the date of the prohibition if he was then so employed, and, if he was not so employed at the date of the prohibition, not exceeding one-half of the weekly rate of pay ruling at the date of the prohibition for the class of work on which the mine worker was last employed as a mine worker in the district in which he was so employed, together in each case with a sum of seven shillings and sixpence per week in respect of each child under sixteen years of age, but not exceeding in the aggregate the sum of three pounds ten shillings per week until the mine worker shall have received by means of such weekly payments, including any additional weekly allowance hereinafter provided for, a total sum of seven hundred and fifty pounds.

Provided that, if the weekly sum as fixed by the Board together with the sum of seven shillings and sixpence for each child exceeds in the aggregate the maximum sum of three pounds ten shillings per week payable under this paragraph, and the Board is of the opinion that such mine

worker's case is one of extreme hardship, the Board may grant and pay out of the Fund to such mine worker an additional weekly allowance, while he continues to receive the weekly payment under this paragraph, of an amount not exceeding the difference between the sum of three pounds ten shillings and the amount of the basic wage from time to time ruling in the district in which the mine worker was residing at the date of his medical examination under this Act, which resulted in his being prohibited as aforesaid.

Provided further, that the commencing dates for the computation of the weekly payments under this paragraph shall be as follows:—

- (i) the day following the day upon which the mine worker ceases work, if he is employed as a mine worker at a mine on the date of the prohibition;
- (ii) the day following the day upon which the mine worker ceases work, if he is employed as a mine worker at a mine after the date of his medical examination under this Act, which resulted in his being prohibited as aforesaid, and is not so employed on the date of such prohibition;
- (iii) the day of his medical examination under this Act which resulted in his being prohibited as aforesaid, if the mine worker is not employed as a mine worker at a mine after the date of such examination and on the date of such prohibition.

Amendment of
s. 50.

9. Section fifty of the principal Act is amended, as follows:—

(a) By deleting subsection (1) and inserting in lieu thereof a new subsection, as follows:—

(1.) Subject, as in this section hereinafter provided, any mine worker notified in accordance with section sixteen of this Act that he is suffering from silicosis in the early stage without tuberculosis, may within three months after the date of receiving such notice, or such

further time as the Minister may allow, give notice in the prescribed form to the Department stating the name of the employer by whom he was last employed as a mine worker underground, the class of work in which he was so employed, the date when he so ceased to work, and the rate of pay which he was then receiving.

(b) By inserting after subsection (3) a proviso, as follows:—

Provided that a mine worker who is working underground as a mine worker when notified as aforesaid shall not be entitled to be registered under this section until he ceases to work underground, and then shall only be entitled to be so registered, if he has ceased to work underground within two years after the date of receiving the notice aforesaid and applies for such registration within three months after ceasing to work underground as aforesaid.

10. Section fifty-two of the principal Act is amended as follows:— Amendment
of s. 52.

(a) by deleting from subsection (1) the words “as on the date of such notice,” in line six of the subsection;

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

(1.a) Where a person is entitled to workers' compensation under and by virtue of subsection (1) of this section the commencing dates for the computation of the weekly payments of such workers' compensation shall, subject to subsection (2) of this section, be as follows:—

(a) the day following the day upon which such person ceases work, if he is employed as a mine worker at a mine at the date of the said notice;

(b) the day following the day upon which such person ceases work, if he is employed as a mine worker at a mine after the date of his medical examination under this Act, which resulted in his being given notice as aforesaid, and is not so employed on the date of such notice;

- (c) the day of his medical examination under this Act, which resulted in his being given notice as aforesaid, if such person is not employed as a mine worker at a mine after the date of such examination and on the date of the said notice.

Amendment
of s. 53.

11. Section fifty-three of the principal Act is amended, as follows:—

- (a) by deleting from the second proviso to subsection (1) the words “otherwise than with the consent of such person,” in lines four and five of the said proviso; and inserting in lieu thereof the words “on the application of the employer; and that where a mine worker receives a lump sum payment in redemption of weekly workers’ compensation either by mutual agreement with the employer or as ordered by the local court on the application of the mine worker, the mine worker, notwithstanding that he has received such payment, shall not be deemed to have received such compensation in full until the expiration of the period which would have elapsed while he was receiving by weekly payments of compensation the total sum of seven hundred and fifty pounds”;
- (b) by deleting the last proviso to subsection (1), and inserting in lieu thereof a proviso, as follows:—

Provided further, that where a person referred to in subsection (1) of this section is receiving his workers’ compensation by weekly payments in accordance with the said Act, and the circumstances are such that fifty per centum of his average weekly earnings as ascertained in accordance with the provisions of the First Schedule to the Act, together with the sum of seven shillings and sixpence for each child under sixteen years of age as allowed by the said Act exceeds in the aggregate the maximum weekly payment of three pounds ten shillings per week payable under the said Act, the Board may, if it is of the opinion that such person’s case is one of extreme hardship, grant and pay out of the Fund to such person, while he continues to receive his weekly payments of workers’ compensation, a weekly allowance of

an amount not exceeding the difference between the sum of three pounds ten shillings and the amount of the basic wage from time to time ruling in the district in which such person was residing at the date of his medical examination under this Act, which resulted in his receiving notice under subsection (2) of section fifty-one of this Act as aforesaid.

12. Section fifty-seven of the principal Act is amended by adding at the end of subsection (4) the words "For the purposes of the second proviso to paragraph (a) of subsection (1) of section forty-nine aforesaid, a person who is engaged in prospecting at the time of his medical examination referred to in this subsection shall be deemed to be then employed as a mine worker at a mine, and the provisions of the said second proviso shall apply to such person accordingly."

Amendment
of s. 57.

13. The principal Act as amended by this Act may be cited as the Mine Workers' Relief Act, 1932-1933.

Citation of
principal Act
as amended.