

Western Australia

**Coal Industry Superannuation Amendment
Act 2013**

As at 04 Nov 2013

No. 19 of 2013

Extract from www.slp.wa.gov.au, see that website for further information

Coal Industry Superannuation Amendment Act 2013

Contents

Part 1 — Preliminary		
1.	Short title	2
2.	Commencement	2
3.	Act amended	2
Part 2 — Immediate amendments		
4.	Section 3 amended	3
5.	Section 4 amended	3
6.	Part 2 inserted	6
Part 2 — Superannuation for mine workers		
	7A. Superannuation rules	6
	7B. Designated fund	7
7.	Section 10B deleted	8
8.	Part 5 deleted	8
9.	Schedule 3 deleted	8
Part 3 — Amendments when superannuation rules made		
10.	Section 9 amended	9
11.	Section 28 amended	10
12.	Section 29 amended	11
13.	Section 31 amended	11
14.	Schedule 1 deleted	12

Part 4 — Amendments when benefits transferred

15.	Sections 28A and 28B inserted	13
	28A. Winding up of Fund	13
	28B. Notification following winding up	14
16.	Section 32 amended	14

Part 5 — Amendments following winding up

17.	Section 3 amended	16
18.	Part 3 deleted	16
19.	Sections 29A and 30 deleted	16
20.	Section 31 amended	16
21.	Schedule 2 deleted	17



Western Australia

Coal Industry Superannuation Amendment Act 2013

No. 19 of 2013

An Act to amend the *Coal Industry Superannuation Act 1989*.

[Assented to 4 November 2013]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Coal Industry Superannuation Amendment Act 2013*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) Part 2 — on the day after assent day;
- (c) Parts 3, 4 and 5 — on a day fixed by proclamation, and different days may be fixed for each Part.

3. Act amended

This Act amends the *Coal Industry Superannuation Act 1989*.

Part 2 — Immediate amendments

4. Section 3 amended

- (1) In section 3(1) delete the definitions of:

employer

mine worker

- (2) In section 3(1) insert in alphabetical order:

employer means a natural person, firm or body corporate that employs mine workers;

mine worker has the meaning given in section 4;

scheme means the superannuation scheme for mine workers constituted by this Act;

scheme benefits means the superannuation and related benefits to be paid under superannuation rules;

scheme contributions means the contributions payable or paid under superannuation rules;

successor fund has the meaning given in *Superannuation Industry (Supervision) Regulations 1994* (Commonwealth) regulation 1.03(1);

superannuation fund means a regulated superannuation fund within the meaning of the SIS Act section 19;

superannuation rules means rules made by regulations under section 7A(1);

5. Section 4 amended

- (1) In section 4(1):

- (a) in paragraph (a) delete “award or industrial agreement under the *Industrial Relations Act 1979* or the *Industrial Relations Act 1988* of the Commonwealth, other than a

s. 5

person who is for the time being excluded by a notice of the Board under subsection (3);” and insert:

industrial instrument; or

- (b) in paragraph (c)(i) delete “an industrial or trade union of employees, or of an association of employees, registered as an organisation within the meaning of the *Industrial Relations Act 1988* of the Commonwealth, or under the *Industrial Relations Act 1979*, of which union or association the membership” and insert:

a registered organisation, the membership of which

- (c) in paragraph (c)(ii) delete “in the opinion of the Board”;
- (d) in paragraph (d) delete “who, in the opinion of the Board,” and insert:

who

- (2) In section 4(1):

- (a) after each of paragraphs (b) and (c) insert:

or

- (b) after paragraph (d) delete “and” and insert:

or

- (3) In section 4(2) delete “order published in the *Gazette*” and insert:

regulations

- (4) Delete section 4(3) to (6) and insert:

- (3) In this section —

industrial instrument means any of the following —

- (a) an award, industrial agreement or order made under the *Industrial Relations Act 1979*;
- (b) an award, determination, enterprise agreement or order made under the *Fair Work Act 2009* (Commonwealth);
- (c) an award, determination or agreement given continuing effect under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Commonwealth);
- (d) an award, agreement, determination, order or similar instrument which is made under a law of the State or the Commonwealth dealing with workplace relations and which is prescribed for the purposes of this definition;

registered organisation means any of the following —

- (a) an association of employees, or an enterprise association, registered as an organisation under the *Fair Work (Registered Organisations) Act 2009* (Commonwealth);
- (b) an organisation of employees registered under the *Industrial Relations Act 1979*;
- (c) a like association or organisation which is registered under a law of the State or the Commonwealth dealing with workplace

relations and which is prescribed for the purposes of this definition.

6. Part 2 inserted

After section 4 insert:

Part 2 — Superannuation for mine workers

7A. Superannuation rules

- (1) The Governor may, by regulations, make rules to govern the scheme.
- (2) Rules made under subsection (1) are —
 - (a) to provide for mine workers to become members of the scheme, for different categories of membership and for admission to, continuation of and cessation of membership; and
 - (b) to require employers to participate in the scheme and to provide for admission to, continuation of and cessation of participation; and
 - (c) to specify superannuation and related benefits to be paid to or in respect of members of the scheme; and
 - (d) to provide for the protection, adjustment, reduction, forfeiture and application of the scheme benefits; and
 - (e) to require members and employers to pay contributions towards the scheme benefits, and to specify the amount or rate of contributions to be paid by members and employers respectively, or procedures by which the

amount or rate of such contributions is to be determined.

- (3) Rules made under subsection (1) may include any provision necessary or convenient for consistency with the SIS Act.

7B. Designated fund

- (1) The Governor may, by regulations —
- (a) designate a superannuation fund as the fund to which the scheme contributions are to be paid and through which the scheme benefits are to be provided; and
 - (b) revoke a designation made under paragraph (a).
- (2) Regulations may not designate a superannuation fund under subsection (1)(a) unless the Minister is satisfied that —
- (a) the governing rules of the superannuation fund will, if the superannuation fund is designated, so far as the SIS Act permits —
 - (i) entitle members and employers to participate in and pay scheme contributions to the superannuation fund; and
 - (ii) require the trustee of the superannuation fund to provide the scheme benefits;and
 - (b) the superannuation fund will, with respect to each member, be a successor fund in relation to a transfer of benefits from the superannuation fund through which, immediately before the designation, the scheme benefits are provided.
- (3) Regulations may not revoke the designation of a superannuation fund under subsection (1)(b) unless

s. 7

they also designate another superannuation fund under subsection (1)(a) with effect from the revocation.

- (4) Regulations made under subsection (1) may include any provision necessary or convenient for consistency with the SIS Act.

7. Section 10B deleted

Delete section 10B.

8. Part 5 deleted

Delete Part 5.

9. Schedule 3 deleted

Delete Schedule 3.

**Part 3 — Amendments when superannuation
rules made**

10. Section 9 amended

(1) Delete section 9(1a), (1b) and (1c) and insert:

(2A) Members of the scheme are members of the Fund.

(2) In section 9(2) delete paragraph (a) and insert:

(a) scheme contributions paid at a time when no
superannuation fund is designated under
section 7B(1); and

(3) In section 9(3):

(a) delete “for the payment of —” and insert:

for —

(b) delete paragraph (a) and insert:

(a) the payment of the scheme benefits; and

(c) delete paragraph (b);

(d) in paragraph (c) before “the costs” insert:

the payment of

s. 11

(e) in paragraph (c) delete “Schedule 2;” and insert:

Schedule 2; and

(f) in paragraph (d) before “allowances” insert:

the payment of

(g) in paragraph (e) before “the costs” insert:

the payment of

(h) in paragraph (e) delete “to the Fund.” and insert:

to the Fund; and

(i) after paragraph (e) insert:

(f) the transfer of benefits in respect of members of the Fund, subject to and in accordance with the SIS Act.

(4) In section 9(2) after each of paragraphs (b) and (c) insert:

and

11. Section 28 amended

(1) In section 28(1) delete “Fund” (each occurrence) and insert:

scheme

- (2) In section 28(2):
 - (a) delete “this Act” (second occurrence) and insert:

the scheme
 - (b) delete “Fund” and insert:

scheme

12. Section 29 amended

- (1) In section 29(1) delete “Fund” and insert:

scheme
- (2) In section 29(2):
 - (a) delete “Fund” and insert:

scheme
 - (b) delete “this Act” and insert:

the scheme

13. Section 31 amended

- (1) Delete section 31(a), (b), (c), (d) and (e).
- (2) In section 31(l) delete “to achieve compliance” and insert:

or convenient for consistency

s. 14

14. Schedule 1 deleted

Delete Schedule 1.

Part 4 — Amendments when benefits transferred

15. Sections 28A and 28B inserted

At the end of Part 3 insert:

28A. Winding up of Fund

(1) In this section —

fund transfer day means the day on which the first regulations made under section 7B come into operation;

successor trustee means the trustee of the superannuation fund designated by the first regulations made under section 7B.

(2) On the fund transfer day the Board is to transfer the scheme benefits to the successor trustee in accordance with the SIS Act.

(3) From the fund transfer day —

(a) the Board is to accept no scheme contributions accruing due after, or calculated in respect of a period of service completed after, the fund transfer day; and

(b) no entitlement to scheme benefits arises against the Board or the Fund in respect of any period of service or membership after, or in respect of any death or disablement occurring after, the fund transfer day.

(4) As soon as reasonably practicable after the fund transfer day, the Board is to wind up the Fund by —

(a) delivering to the successor trustee all records and information in the possession or under the control of the Board which the successor trustee requires for the operation of the scheme; and

- (b) transferring the assets of the Fund to the successor trustee in accordance with the SIS Act; and
- (c) completing all outstanding returns, reports and accounts required under this Act or under the SIS Act in relation to the Fund or the Board; and
- (d) delivering to the Director of State Records all records and information in its possession or under its control which it has not delivered to the successor trustee.

28B. Notification following winding up

As soon as reasonably practical after the Board is satisfied that the winding up of the Fund under section 28A is completed, it is to notify the Minister that the winding up is complete.

16. Section 32 amended

- (1) Delete section 32(1) and insert:
 - (1) As soon as is reasonably practicable after the 3rd anniversary of the day on which the first regulations made under section 7B come into operation, the Treasurer is to carry out a review of the operation of this Act and, in the course of the review, is to consider and have regard to —
 - (a) the requirement for employers to pay contributions towards the scheme benefits; and
 - (b) such other matters as appear to the Treasurer to be relevant to the operation and effectiveness of this Act.

(2) In section 32(2) delete “Minister” and insert:

Treasurer

Part 5 — Amendments following winding up

17. Section 3 amended

- (1) In section 3(1) delete the definitions of:

Administration Manager

Board

Commissioner

delegate

Fund

investment manager

officer

property

the actuary

- (2) In section 3(1) in the definition of *superannuation rules* delete “section 7A(1);” and insert:

section 7A(1).

18. Part 3 deleted

Delete Part 3.

19. Sections 29A and 30 deleted

Delete sections 29A and 30.

20. Section 31 amended

Delete section 31(f), (g), (ga) and (h).

21. Schedule 2 deleted

Delete Schedule 2.

=====