

Western Australia

Coal Mines Legislation Amendment and Revival Act 1998

(No. 59 of 1998)

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Coal Mines Legislation Amendment and Revival Act 1998

No. 59 of 1998

An Act to —

- **amend the *Coal Miners' Welfare Act 1947*;**
 - **revive and continue certain provisions of the *Coal Mines Regulation Act 1946* in order to make provision for the moneys in the Coal Mines Accident Relief Fund;**
 - **to validate certain past acts,**
- and for related purposes.**

[Assented to 31 December 1998]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Coal Mines Legislation Amendment and Revival Act 1998*.

2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

Part 2 — The *Coal Miners' Welfare Act 1947* amended

3. The Act amended

The amendments in this Part are to the *Coal Miners' Welfare Act 1947*.*.

[* *Reprinted as approved at 7 April 1971.*

For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 37.]

4. Section 1 amended

Section 1(2) is amended by deleting “Coal Mines Regulation Act, 1946” and inserting instead —

“ *Mines Safety and Inspection Act 1994* ”.

5. Section 6 amended

(1) After section 6(1) the following subsections are inserted —

“

(1a) The owner of every coal mine shall in the months of January and July in every year pay to the Fund a sum equivalent to 0.4101 cent per tonne on the output of all coal sold from every mine of which he or she is the owner during the preceding 6 months respectively ending on the last day of December or June, as the case may be, and the sums so payable in respect of any mine shall be recoverable as a debt due to the Board.

(1b) The sums to be paid under subsections (1) and (1a) are to be credited to separate accounts forming part of the Fund.

”.

s. 6

- (2) Section 6(2) is amended by deleting “subsection (1)” and inserting instead —

“ subsections (1) and (1a) ”.

6. Section 16 amended

Section 16 is amended as follows:

- (a) in subsection (1) by deleting “(other than anything required to be provided by the owner or manager of a coal mine by the Coal Mines Regulations Act, 1946)”;
(b) after subsection (2) by inserting the following subsections —

“

- (3) The Board is to consult with the owners of coal mines before applying money standing to the credit of the subsection (1a) account.

- (4) In this section —

“**subsection (1a) account**” means the separate account forming part of the Fund to which —

- (a) moneys transferred under section 10(3) of the *Coal Mines Legislation Amendment and Revival Act 1998*; and
(b) sums paid under section 6(1a),
are to be credited.

”.

Part 3 — Revival, validation and transitional provisions

7. Interpretation

In this Part —

“entitled relative” means a person who, as a relative of a deceased employee of a coal mine, is entitled to a benefit under section 38(4) of the repealed Act as revived by section 8;

“expiry day” means the day on which an order under section 12 is published in the *Gazette*;

“Fund” has the same meaning as in the *Coal Miners’ Welfare Act 1947*;

“injured employee” means a person who, as an employee of a coal mine who has suffered personal injury or contracted a disease, is entitled to payments under section 38(4) of the repealed Act as revived by section 8;

“Relief Fund” means the Coal Mines Accident Relief Fund referred to in section 38 of the repealed Act;

“repealed Act” means the *Coal Mines Regulation Act 1946* repealed by section 107 of the *Mines Safety and Inspection Act 1994* which came into operation on 9 December 1995;

“repealed regulations” means the Coal Mines Regulations repealed by regulation 17.2 of the *Mines Safety and Inspection Regulations 1995* published in the *Gazette* on 8 December 1995;

“Trust” means the Coal Mines Accident Relief Fund Trust referred to in section 38 of the repealed Act.

s. 8

8. Revival

- (1) Subject to subsection (2), the repealed Act other than sections 2, 3, 5A to 37, 39 to 63 and 65 to 69 —
 - (a) is hereby revived;
 - (b) is taken to have been in operation from 9 December 1995; and
 - (c) shall continue in operation until the expiry day.
- (2) Despite the revival of section 38 of the repealed Act, neither an owner nor an employee of a coal mine is required to contribute any moneys to the Relief Fund after the commencement of this Act.
- (3) The repealed regulations other than regulations 2 to 206 and 235 to 276 —
 - (a) are hereby revived;
 - (b) are taken to have been in operation from 9 December 1995; and
 - (c) shall continue in operation until the expiry day.

9. Validation

- (1) For the avoidance of doubt, anything done under —
 - (a) section 38 or 64 of the repealed Act; or
 - (b) regulations 207 to 234A of the repealed regulations,before the commencement of this Act is as valid and effective as it would have been if, at the time when it was done, the repealed Act or the repealed regulations, as the case requires, had not been repealed.

- (2) Without limiting the generality of subsection (1) —
- (a) any moneys purported to have been payable to, contributed to and received into the Relief Fund under section 38(1) or (2) of the repealed Act before the commencement of this Act are taken to be, and to have always been, validly payable to, contributed to and received into the Relief Fund and to be recoverable accordingly;
 - (b) the appointment of a trustee of the Trust purported to have been made under section 38(4) of the repealed Act before the commencement of this Act is as valid and effective as it would have been if, at the time when it was done, the repealed Act had not been repealed; and
 - (c) the appointment of a member of the accident committee, the secretary of that committee and the secretary of the Trust purported to have been made under the repealed regulations before the commencement of this Act is as valid and effective as it would have been if, at the time when it was done, the repealed regulations had not been repealed.

10. Application of Relief Fund moneys

- (1) Moneys standing to the credit of the Relief Fund are to be applied by the Trust as the Trust thinks fit, and with the approval of the Minister —
- (a) to the entitled relatives, by way of a lump sum payment in full satisfaction of their entitlement to payment under the repealed Act;
 - (b) in payment of expenses and costs incurred under the repealed Act; and
 - (c) in payment of the costs of, and related to, the implementation of this Act.

s. 11

- (2) The entitlement of an injured employee to payment from the Relief Fund ceases on the date the lump sum payments are made to entitled relatives under subsection (1)(a).
- (3) The balance of the moneys standing to the credit of the Relief Fund after the payments referred to in subsection (1) have been made is to be transferred to the separate account forming part of the Fund into which moneys that are payable under section 6(1a) of the *Coal Miners' Welfare Act 1947* as in force after the commencement of this Act are to be credited.

11. Reporting

- (1) The Trust as constituted under the repealed Act on the commencement of this Act is to, as soon as practicable after that commencement —
 - (a) perform the functions described in section 10; and
 - (b) prepare a report on its operations in respect of —
 - (i) the financial year ending on the last preceding 30 June; and
 - (ii) the period commencing on the last preceding 1 July and ending when there are no moneys in the Relief Fund and no moneys to be paid into the Relief Fund.
- (2) The reports prepared under subsection (1)(b) are to comply, with any necessary modifications, with the provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities.
- (3) A report under subsection (1)(b)(ii) is deemed to be an annual report for the purposes of section 69 of the *Financial Administration and Audit Act 1985*.

12. Expiry of revived provisions

When the Minister is satisfied that there are no moneys in the Relief Fund and no moneys to be paid into the Relief Fund, the Minister is to make an order to that effect, and publish that order in the *Gazette*.

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