

COAL MINE WORKERS (PENSIONS).

No. 62 of 1980.

AN ACT to amend the Coal Mine Workers
(Pensions) Act 1943-1977.

[Assented to 24 November 1980.]

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) Amendment Act 1980*.

Short title
and citation.

(2) In this Act the Coal Mine Workers (Pensions) Act 1943-1977 is referred to as the principal Act.

Approved
for Reprint
28 June 1971;
amended by
Acts Nos. 35
of 1971, 79 of
1972, 40 of
1973 and 12
of 1977.

(3) The principal Act as amended by this Act may be cited as the Coal Mine Workers (Pensions) Act 1943-1980.

Section 10A
repealed.

2. Section 10A of the principal Act is repealed.

Section 10C
repealed and
substituted.

3. Section 10C of the principal Act is repealed and the following section substituted—

Variation of
pensions.

“ 10C. (1) Subject to this section, the maximum rate of pension payable to a person under this Act shall be increased from time to time by the same percentage increase by which the weekly wage payable to a composite mine worker under an award of the Western Australian Coal Mining Industry Tribunal constituted under the Mining Act 1904 is increased.

(2) Subject to this section, where a person to whom or in respect of whom a pension is payable under this Act is in the opinion of the Tribunal eligible to receive a Commonwealth pension the Tribunal shall reduce the pension payable under this Act to or in respect of that person by the amount that the Tribunal is of the opinion that that person is eligible to receive by way of the Commonwealth pension.

(3) The Tribunal may allow a person to receive any amount by which the pension payable under this Act to or in respect of that person is reduced pursuant to subsection (2) of this section if—

(a) the amount is in respect of an age or invalid Commonwealth pension; and

(b) the pension payable under this Act in respect of which the reduction is required to be made is awarded before the date upon which the age or invalid Commonwealth pension becomes payable in respect of that person.

(4) A variation of a pension payable under this Act shall take effect—

(a) if the variation is an increase in the pension pursuant to subsection (1) of

this section, in respect of the period commencing on the first day of the next ensuing pay period after the increase is granted;

- (b) if the variation is a reduction in the pension pursuant to subsection (2) of this section, in respect of the period commencing on the first day of the next ensuing period for which pensions are payable under this Act.

(5) Subsection (2) of this section does not apply to or in relation to any amount payable—

- (a) by way of supplementary assistance under section 30A of the Social Services Act;
 - (b) pursuant to section 135U of the Social Services Act;
 - (c) to a person who has the care, custody or control of a child under the age of 16 years.
- (6) A reference in this section to—
- (a) a “Commonwealth pension” is a reference to any age, invalid, widow, or repatriation pension payable under a law of the Parliament of the Commonwealth; and
 - (b) the “Social Services Act” is a reference to the Social Services Act 1947 of the Parliament of the Commonwealth and any Act amending or in substitution for that Act. ” .

4. Section 14 of the principal Act is repealed and the following section substituted—

Section 14
repealed and
substituted.

“ 14. (1) This section applies to and in respect of a pension that was or is first payable on or after 1 December 1979.

Lump sum
pensions.

(2) Notwithstanding anything in this Act but subject to this section, there shall be payable to a mine worker who is eligible for a pension under this Act in lieu of that pension a lump sum payment the amount of which shall be calculated in accordance with the following equation—

$$a \times (y-r) = l.$$

where—

- a* represents the figure 100 adjusted by the same percentage increase or decrease in the weekly wage payable to a composite mine worker that has occurred since 1 December 1979 under an award of the Western Australian Coal Mining Industry Tribunal constituted under the Mining Act 1904;
- y* represents the number of months of completed service of the mine worker to a maximum of 480 months;
- r* represents the period in respect of which a refund of contributions has been made to the mine worker under this Act;
- l* represents the total lump sum amount in dollars payable to the mine worker.

(3) Subject to this section, upon the death of a mine worker there shall be payable in respect of each person who is entitled to a pension under this Act in respect of the mine worker in lieu of that pension a lump sum payment as follows—

- (a) if the person is a person in respect of whom a pension would have been payable under section 9 (1) (a) of this Act or section 9 (1) (c) of this Act, an amount equal to one-half of the amount that would have been payable to the mine worker under subsection (2) of this section;

- (b) if the person is a person in respect of whom a pension would have been payable under section 9 (1) (b) of this Act, an amount equal to one-third of the amount payable under paragraph (a) of this subsection,

but if no lump sum is payable under paragraph (a) of this subsection and a lump sum is payable only under paragraph (b) of this subsection the lump sum so payable shall be as follows—

- (c) if the number of persons in respect of whom a lump sum is payable does not exceed 3, the amount payable in respect of each person shall be an amount equal to two-thirds of the amount that would have been payable under paragraph (a) of this subsection;
- (d) if the number of persons to whom a lump sum is payable exceeds 3, the total amount payable in respect of all the persons shall be an amount equal to the maximum amount that would have been payable under paragraph (c) of this subsection.

(4) Where a lump sum is payable under this section to or in respect of a mine worker by reason of the death of or injury to the mine worker the following provisions apply in respect to the calculation of the amount of the lump sum payable—

- (a) if the lump sum becomes payable by reason of the death of or injury to the mine worker arising out of or in the course of his employment as a mine worker, it shall be assumed that the mine worker had attained the age of 60 years at the time the entitlement to payment arose;
- (b) if the lump sum becomes payable by reason of the death of or injury to the mine worker otherwise than out of or

in the course of his employment as a mine worker, the lump sum payable shall be reduced by one-tenth for each year under 10 years that the mine worker has not been employed as a mine worker.

(5) The payment of a lump sum under this section releases the Fund from any further payment to or in respect of the mine worker under this Act.

(6) Any pension paid to or in respect of a mine worker after 1 December 1979 and before the Coal Mine Workers (Pensions) Amendment Act 1980 comes into operation shall be deducted from the lump sum amount payable under this section. ” .

Section 21
amended.

5. Section 21 of the principal Act is amended—

(a) by repealing subsection (3) and substituting the following subsection—

“ (3) In addition to any contribution payable by an owner under this section, in respect of the period commencing on 6 October 1980 there shall be payable by every owner to the Fund a weekly contribution of \$17.03 in respect of each mine worker employed by him. ” ;
and

(b) in subsection (3)—

(i) by inserting after “in paragraph (d) of subsection (2)” in paragraph (a) the following—

“ and in subsection (3) ” ; and

(ii) by deleting “paragraph (d) of subsection (2) of” in paragraph (c).

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6. Section 22 of the principal Act is amended by inserting after subsection (2) the following subsection—

Section 22
amended.

“ (3) The provisions of this section do not apply to or in relation to payments made to the Fund pursuant to section 21 (3) of this Act. ” .
