

COAL MINE WORKERS (PENSIONS).

No. 75 of 1985.

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

[Assented to 4 December 1985.]

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 1985*.

Short title
and principal
Act.

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

Reprint
approved
7 November
1984.

2. This Act shall come into operation on 7 December 1985.

Commence-
ment.

Section 2
amended.

3. Section 2 of the principal Act is amended in the definition of "Mine worker" by deleting "male" in paragraph (j).

Section 9
amended.

4. Section 9 of the principal Act is amended—

(a) in subsection (1)—

(i) by repealing paragraph (a) and substituting the following—

“ (a) an additional payment at the appropriate rate in respect of the spouse of the mine worker, which amount shall be payable until the death of the spouse or until the spouse ceases to be the spouse of the mine worker; ”;

(ii) by deleting "he" in paragraph (b) and substituting the following—

“ the mine worker ”;

(iii) by deleting "his earnings" in paragraph (b) and substituting the following—

“ the earnings of the mine worker ”;

(iv) by deleting "one female" in paragraph (c) and substituting the following—

“ 1 person ”;

(v) by deleting "his earnings" in paragraph (c) and substituting the following—

“ the earnings of the mine worker ”;

(vi) by deleting "her death or marriage" in paragraph (c) and substituting the following—

" the death or marriage of that person ";

(vii) by deleting "she" in paragraph (c) and substituting the following—

" that person "; and

(viii) by deleting "female" in the proviso to paragraph (c) and substituting the following—

" person ";

(b) in subsection (2)—

(i) by deleting "his wife" where first occurring and substituting the following—

" the spouse of the mine worker ";

(ii) by deleting "the wife" and substituting the following—

" the spouse of the mine worker ";

(iii) by deleting "her husband" and substituting the following—

" the mine worker ";

(iv) by deleting "the husband" and substituting the following—

" the mine worker "; and

(v) by deleting "his wife" where secondly occurring and substituting the following—

" the mine worker's spouse "; and

(c) in subsection (6)—

(i) by deleting “his wife” and substituting the following—

“ the spouse of the mine worker ”;

(ii) by deleting “he employs” and substituting the following—

“ the mine worker employs ”;

(iii) by deleting “a female over the age of sixteen years (whether or not such female” and substituting the following—

“ a person over the age of 16 years (whether or not that person ”;

(iv) by deleting “for his wife” and substituting the following—

“ for the spouse of the mine worker ”;

and

(v) by deleting “his pension at the appropriate rate in respect of such female” and substituting the following—

“ the pension of the mine worker at the appropriate rate in respect of that person ”.

Section 10
amended.

5. Section 10 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting “his” in paragraph (b);

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(ii) by deleting “(not being an intentional self-inflicted injury)” in paragraph (b);

(iii) by deleting “his employment” in paragraph (c) and substituting the following—

“ employment ”;

(iv) by deleting “his death” in paragraph (c) and substituting the following—

“ the death of the mine worker ”;

(v) by deleting “the widow of such person or mine worker, or the female relative in respect of whom such person or mine worker, if he had remained alive, would have been entitled to an addition to his pension” and substituting the following—

“ any person in respect of whom, if the mine worker had not died, an amount would have been payable ”; and

(vi) by deleting “such widow or female relative, as the case may be,” and substituting the following—

“ that person ”;

(b) in subsection (2)—

(i) by deleting “widow” in paragraph (a) and substituting the following—

“ surviving spouse ”; and

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- (ii) by deleting “widow” in paragraph (b) and substituting the following—

“ surviving spouse ”;

- (c) in subsection (3)—

- (i) by deleting “female is recognized as the wife” in paragraph (a) and substituting the following—

“ person is recognized as the spouse ”;

- (ii) by deleting “married to him” in paragraph (a) and substituting the following—

“ married to the mine worker ”;

- (iii) by deleting “that female were the wife” in paragraph (a) (i) and substituting the following—

“ that person were the spouse ”;

- (iv) by deleting “such female” in paragraph (a) (ii) and substituting the following—

“ such person ”;

- (v) by deleting “female were the widow of the mine worker” and substituting the following—

“ person were the surviving spouse of the mine worker ”;

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(vi) by deleting “wife or widow” in the proviso to paragraph (a) and substituting the following—

“ spouse or surviving spouse ”;
and

(vii) by deleting “female” where twice occurring in paragraph (c) and substituting in each case the following—

“ person ”; and

(d) in subsection (4)—

(i) by deleting “female (other than a widow” and substituting the following—

“ person (other than the surviving spouse ”; and

(ii) by deleting “such female” and substituting the following—

“ that person ”.

6. Section 10C of the principal Act is repealed. Section 10C repealed.

7. Section 11 of the principal Act is amended in subsection (1)— Section 11 amended.

(a) by deleting “Where” in subsection (1) and substituting the following—

“ Subject to section 13B, where ”; and

(b) by deleting “him until his death” and substituting the following—

“ the mine worker until the death of the mine worker ”.

Section 13A
amended.

8. Section 13A of the principal Act is amended—

(a) in subsection (4) by deleting “section.” and substituting the following—

“ section less any amount deemed to be received by that person under subsection (5). ”; and

(b) by inserting the following subsection—

“ (5) A person who is entitled to a pension under this Act is deemed to receive the maximum amount of any pension or any payment in the nature of a pension (including a widow’s pension and an invalid pension) payable to an eligible person under any law of the State or Commonwealth that is or would be payable to that person had that person not been in receipt of or entitled to receive a pension under this Act whether or not that person actually receives such a pension or payment under that State or Commonwealth law. ”.

Section 13B
inserted.

9. After section 13A of the principal Act the following section is inserted—

Commuta-
tion of
pension
entitlements.

“ 13B. (1) Notwithstanding anything in this Act, a person who is entitled to receive a pension by virtue of section 6, 7 or 8 may elect to commute that pension to a lump sum payment in accordance with the Schedule.

(2) A person who desires to make an election under subsection (1)—

(a) shall make application to that effect to the Tribunal; and

(b) subject to subsection (3), shall lodge the application not later than 31 December 1985.

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(3) The Tribunal may, in relation to a particular application made under subsection (2), extend the time fixed under subsection (2) and where it does so it shall deduct from the amount payable to that person under this section the amount of any pension paid to that person after 7 December 1985. ”.

10. Section 21 of the principal Act is amended— Section 21 amended.

(a) in subsection (5)—

(i) by deleting “his employment” and substituting the following—

“ the employment of the mine worker ”;

(ii) by deleting “entitle him” and substituting the following—

“ entitle the mine worker ”;

(iii) by deleting “him or his widow” and substituting the following—

“ the mine worker or the surviving spouse of the mine worker ”;

and

(iv) by deleting “paid by him” and substituting the following—

“ paid by the mine worker ”; and

(b) in subsection (5a)—

(i) by deleting “he” wherever occurring and substituting in each case the following—

“ the mine worker ”;

- (ii) by deleting “his attaining” in paragraph (a) and substituting the following—

“ the mine worker attaining ”;

- (iii) by deleting “his retirement” in paragraph (a) and substituting the following—

“ the mine worker’s retirement ”;

- (iv) by deleting paragraph (b) and substituting the following—

“ (b) the ill-health of the mine worker; ”;

- (v) by deleting “him or his widow” and substituting the following—

“ the mine worker or the spouse of the mine worker, ”; and

- (vi) by deleting “paid by him” and substituting the following—

“ paid by the mine worker ”.

Section 21B
amended.

11. Section 21B of the principal Act is amended—

- (a) in subsection (4) by deleting “his widow” in paragraph (c) and substituting the following—

“ the surviving spouse of the mine worker ”; and

- (b) in subsection (5)—

- (i) by deleting “him” and substituting the following—

“ the mine worker ”;

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(ii) by deleting “his resignation or dismissal” and substituting the following—

“ the resignation or dismissal of the mine worker ”; and

(iii) by deleting “his widow” and substituting the following—

“ the surviving spouse of the mine worker ”.

12. Section 26 of the principal Act is amended in subsection (3)— Section 26
amended.

(a) by deleting “wife” and substituting the following—

“ spouse ”;

(b) by deleting “her husband or who has been left by him” and substituting the following—

“ the mine worker or who has been left by the mine worker ”;

(c) by deleting paragraphs (a) and (b) and substituting the following paragraphs—

“ (a) that proceedings under the Family Court Act 1975 have been undertaken against the mine worker for the payment of maintenance under that Act and that spouse has failed to obtain an order or that the order, if made, has not been complied with; and

(b) that the whereabouts of the mine worker are not known. ”;

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(d) by deleting “she is so deserted” and substituting the following—

“ the spouse is so deserted ”;

(e) by deleting “awarded to a deserted wife” and substituting the following—

“ awarded to the spouse of a mine worker who has been deserted by the mine worker ”; and

(f) by deleting “the deserted wife” and substituting the following—

“ the spouse of the mine worker under this subsection ”.

Section 38
and schedule
added.

13. After section 37 of the principal Act the following section and schedule are added—

Review of
Act.

“ 38. (1) The Minister shall carry out a review of the operation of this Act as soon as is practicable after 1 January 1991 and every 5th anniversary of that date and in the course of such review the Minister shall consider and have regard to—

(a) the attainment of the objects of this Act;

(b) the administration of this Act;

(c) the effectiveness of the operations of the Tribunal;

(d) the need for the continuation of the Tribunal;

(e) such other matters as appear to the Minister to be relevant.

(2) The Minister shall prepare a report based on the review referred to in subsection (1) and shall, as soon as is practicable after its preparation, cause the report to be laid before each House of Parliament.

SCHEDULE.

Section 13B.

1. An applicant for a lump sum who on 15 February 1985 had attained the age specified in column 1 is entitled—

- (a) if the applicant is eligible for a pension under section 6, 7 or 8 and to an additional payment under section 9 (1) (a) or (c) to the lump sum specified opposite and corresponding to that age in column 2;
- (b) if the applicant is eligible for a pension under section 6, 7 or 8 and is not entitled to an additional payment under section 9 (1) (a) or (c) to the lump sum specified opposite and corresponding to that age in column 3;
- (c) if the applicant is eligible for a pension under section 10 to a lump sum specified opposite and corresponding to that age in column 4, and, if such a person is eligible to receive benefits under Table A of Schedule 3 to the Repatriation Act 1920 of the Parliament of the Commonwealth or any provision in substitution for that provision, or, is eligible to receive any benefits under the Social Services Act 1947 of the Parliament of the Commonwealth that are payable under that Act in respect of a person who is blind, to an additional amount equal to 100% of the amount payable under this paragraph.

2. Where a person who is entitled to a pension under section 6, 7, 8 or 10 is also entitled to an additional payment under section 9 (1) (b), (3) or (4) the lump sum payable in respect of each person in respect of whom an additional payment is payable under those provisions shall be calculated as follows—

- (a) where the person in respect of whom the additional payment is payable has not attained the age of 18 years as at 15 February 1985 and the Tribunal is of the opinion that section 9 (4) applies or applied to that person as at 7 December 1985—an amount ascertained as follows—

$$L = a \times b$$

where

L represents the lump sum payable;

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- a represents the difference between 18 and the age, as at 15 February 1985, of the person in respect of whom the additional payment is payable;
- b represents the amount that is equal to 75% of the annual amount payable in respect of the person as at 15 February 1985,

but in any event the amount payable shall be not less than the amount that is payable in respect of 2 years payments;

- (b) where the person in respect of whom the additional payment is payable had attained the age of 18 years as at 15 February 1985 and the Tribunal is of the opinion that section 9 (4) applies or applied to that person as at 7 December 1985—an amount that does not exceed the amount that is payable in respect of 2 years payments.

3. In clause 1—

“column” means a column of the Table to this Schedule.

Table.

<i>Column</i> 1	<i>Column</i> 2	<i>Column</i> 3	<i>Column</i> 4
35	22 540	17 172	5 395
36	22 469	17 094	5 487
37	22 393	17 011	5 573
38	22 312	16 922	5 653
39	22 224	16 827	5 727
40	22 131	16 727	5 794
41	22 032	16 620	5 854
42	21 926	16 506	5 907
43	21 813	16 386	5 954
44	21 694	16 258	5 995
45	21 567	16 124	6 032
46	21 432	15 982	6 064
47	21 290	15 832	6 090
48	21 138	15 676	6 111
49	20 978	15 510	6 125
50	20 809	15 336	6 133
51	20 630	15 153	6 133
52	20 443	14 962	6 124
53	20 244	14 762	6 104
54	20 035	14 554	6 075
55	19 815	14 335	6 036
56	19 583	14 107	5 989

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<i>Column</i> 1	<i>Column</i> 2	<i>Column</i> 3	<i>Column</i> 4
57	19 341	13 869	5 934
58	19 086	13 622	5 871
59	18 818	13 366	5 801
60	18 539	13 100	5 723
61	18 247	12 826	5 638
62	17 942	12 543	5 546
63	17 626	12 250	5 447
64	17 297	11 952	5 340
65	16 955	11 645	5 228
66	16 603	11 332	5 110
67	16 240	11 013	4 986
68	15 865	10 689	4 857
69	15 479	10 359	4 723
70	15 084	10 027	4 585
71	14 680	9 692	4 444
72	14 268	9 355	4 299
73	13 849	9 016	4 151
74	13 424	8 677	4 000
75	12 994	8 341	3 847
76	12 559	8 006	3 692
77	12 123	7 676	3 538
78	11 685	7 349	3 385
79	11 247	7 028	3 234
80	10 810	6 714	3 086
81	10 377	6 406	2 941
82	9 948	6 107	2 801
83	9 524	5 817	2 666
84	9 108	5 537	2 536
85	8 699	5 267	2 411
86	8 301	5 008	2 293
87	7 913	4 759	2 181
88	7 536	4 523	2 075
89	7 173	4 298	1 975
90	6 822	4 083	1 881
91	6 484	3 882	1 792
92	6 161	3 690	1 708
93	5 851	3 510	1 628
94	5 556	3 338	1 550
95	5 271	3 175	1 473
96	4 996	3 016	1 395
97	4 726	2 857	1 311
98	4 453	2 688	1 217

Tapered
pensions.

14. (1) Notwithstanding anything in section 13B of the principal Act as enacted by this Act but subject to subsection (2), where immediately before the commencement day the former pension paid to a person under this Act was an amount that exceeded the current pension the Tribunal shall continue to pay to that person the former pension.

(2) The Tribunal shall reduce the amount of the pension paid to a person under subsection (1) as from the first full pension pay period in each quarter in the period of 2 years commencing on and from the pension pay period of 7 December 1985 by reducing the difference between the former pension and the current pension by the amount of the difference or by instalments as the Tribunal thinks fit over that period and so that not later than 6 December 1987 a person who is eligible to receive a pension under the principal Act as amended by this Act shall not be paid a pension that is in excess of the current pension.

(3) In this section—

“commencement day” means the day on which this Act came into operation;

“current pension” means the amount payable as a pension under section 13A of the principal Act as amended by this Act;

“former pension” means the amount of pension paid to a person immediately before this Act came into operation.

(4) For the purposes of this section calculations shall be made to the nearest dollar.

Persons
becoming
eligible on
or after
7 December
1985.

15. Where a person becomes eligible to a pension or payment under the principal Act by reason only of the amendment to section 2 of the principal Act effected by section 3 of this Act the amount of any pension or payment payable under the principal

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Act as amended by this Act to that person or to any person whose claim is derived through that person shall be calculated by reference to the day that that person—

(a) became eligible to become a mine worker;
and

(b) commenced to pay contributions,

under the principal Act as amended by this Act.
