



Western Australia

## **Mine Workers' Relief (War Service) Act 1940**

Compare between:

[06 Jul 1998, 00-a0-04] and [04 Jul 2006, 00-b0-05]



## Mine Workers' Relief (War Service) Act 1940

**An Act to make special provision for the protection of the rights and interests of Mine Workers, within the meaning of the *Mine Workers' Relief Act 1932*, who are continuously engaged on War Service in time of War.**

~~[Assented to 9th October, 1940.]~~

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. Short title

This Act may be cited as the *Mine Workers' Relief (War Service) Act 1940*, and shall be read in conjunction with the *Mine Workers' Relief Act 1932*, hereinafter referred to as the principal Act.

### 2. Interpretation

In this Act, unless the context requires otherwise —

- (1) Wherever the terms **“the Board,” “the Fund,” “Laboratory,”** and **“mine worker”** are used, such terms shall have the same meanings respectively as they have when used in the principal Act.
- (2) Wherever the terms **“time of war,” “war”** and **“war service”** are used, such terms shall have the same meanings respectively as they have when used in the

**s. 2A**

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Commonwealth Defence Act as amended from time to time.

**2A. Service incidental to war service**

- (1) For the purposes of section four of this Act, the Governor may during a time of war by Proclamation declare that any service or employment or activity of a non-combatant nature in which persons are engaged and which in the opinion of the Governor is connected with or incidental to or arises out of the prosecution of the war then being waged and any internment in an internment camp shall be service incidental to war service.
- (2) Any Proclamation issued under subsection (1) of this section may be revoked at any time by a subsequent Proclamation.

*[Section 2A inserted by No. 9 of 1945 s.3.]*

**3. Special provisions to apply to mine workers while on war service in time of war**

Where a mine worker, either by reason of enlistment or being called up, is engaged on war service (as defined in section two of this Act) continuously during the time of war, then, notwithstanding anything to the contrary contained in the principal Act, the following provisions shall apply to such mine worker whilst he is engaged on such war service, and for the period of six months thereafter, that is to say: —

- (a) shall be deemed still to be employed as a mine worker so as to enable him to submit himself for examination, and to be examined by the Laboratory, and to obtain any medical or other certificate as provided for under the principal Act and the regulations made thereunder;
- (b) his liability to contribute to the Fund as a mine worker under the principal Act shall be wholly suspended;
- (c) if upon examination by the Laboratory, as provided for in paragraph (a) of this section the mine worker is found to be eligible for any benefit under the principal Act, and he is then no longer engaged on war service, then,

subject to paragraph (d) hereof, he shall be entitled to receive from the Board out of the Fund the benefit for which he has been found eligible as aforesaid, notwithstanding that during his war service or the period of six months thereafter, his liability to contribute to the Fund has been suspended as provided for in paragraph (b) of this section, and he has not paid contributions accordingly;

- (d) anything to the contrary contained in paragraph (c) hereof, if upon examination by the Laboratory as provided for in paragraph (a) of this section, the mine worker is found to be suffering from tuberculosis, he shall not be entitled to any benefit under the principal Act;
- (e) where the mine worker has been examined by the Laboratory as provided for in paragraph (a) of this section, and either at the time of such examination or thereafter he is no longer engaged on war service, any certificate he may obtain or be entitled to as the result of such examination shall have the same effect as it would have had if it had been issued to him while he was employed or was seeking employment as a mine worker prior to engaging in war service.

*[Section 3 amended by No. 9 of 1945 s.4.]*

**4. Special provision to apply in relation to mine workers while on service incidental to war service in time of war**

Where a mine worker during a time of war is engaged continuously in service incidental to war service as declared by the Governor by Proclamation issued under section two A of this Act and then in force then, notwithstanding anything to the contrary contained in the principal Act the following provisions shall apply in relation to such mine worker while he is engaged in such service and for a period of six months thereafter, that is to say: —

**s. 4**

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- (a) The mine worker shall be deemed still to be employed as a mine worker so as to enable him to submit himself for examination, and to be examined by the Laboratory, and to obtain any medical or other certificate as provided for under the principal Act and the regulations made thereunder.
- (b) his liability to contribute to the Fund as a mine worker under the principal Act shall continue;
- (c) employer or the person having control of him shall not be liable to contribute to the Fund as the employer of a mine worker under the principal Act;
- (d) upon examination by the Laboratory, as provided for in paragraph (a) of this section the mine worker is found to be eligible for any benefit under the principal Act and he is then no longer engaged in service incidental to war service as aforesaid, then subject to paragraph (e) hereof, he shall be entitled to receive from the board out of the Fund the benefit for which he has been found eligible as aforesaid;
- (e) anything to the contrary contained in paragraph (d) hereof, if upon examination by the Laboratory as provided for in paragraph (a) of this section the mine worker is found to be suffering from tuberculosis he shall not be entitled to any benefit under the principal Act unless in the opinion of a tribunal consisting of three persons, namely: a medical officer of the Kalgoorlie laboratory, a medical practitioner engaged in active practice in the treatment of tuberculosis, and a specialist radiologist, his condition is the natural progression of the disease contracted as a result of his employment as a mine worker in the Mining Industry of Western Australia;
- (f) where the mine worker has been examined by the Laboratory as provided for in paragraph (a) of this section, and either at the time of such examination or thereafter he is no longer engaged in service incidental

to war service as aforesaid any certificate he may obtain or be entitled to as the result of such examination shall have the same effect as it would have had if it had been issued to him while he was employed or was seeking employment as a mine worker prior to engaging in service incidental to war service.

*[Section 4 inserted by No. 9 of 1945 s.5.]*

**Notes**

- <sup>1-</sup> This is a compilation of the *Mine Workers' Relief (War Service) Act 1940* and includes all amendments effected by the other Acts referred to in the following Table.

**Compilation table**

Short title	Number and year	Assent	Commencement
<i>Mine Workers' Relief (War Service) Act 1940</i>	4 of 1940	9 Oct 1940	9 Oct 1940
<i>Mine Workers' Relief (War Service) Act Amendment Act 1945</i>	9 of 1945	13 Dec 1945	13 Dec 1945
<a href="#"><u>This Act was repealed by the Statute Law Revision Act 2006 s. 3(1) (No. 37 of 2006) as at 4 Jul 2006 (see s. 2)</u></a>			

N.B. The *Mine Workers' Relief (War Service) Act 1940* is to be read as one with the *Mine Workers' Relief (War Service) Act Amendment Act 1945*.