

MINE WORKERS' RELIEF.

10° Elizabeth II., No. LXXIX.

 No. 79 of 1961.

AN ACT to amend the Mine Workers' Relief Act, 1932-1958.*[Assented to 4th December, 1961.]*

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 *Mine Workers' Relief Act Amendment Act, 1961.*

Short title
and citation.

(2) In this Act the Mine Workers' Relief Act 1932-1958, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Mine Workers' Relief Act, 1932-1961.

Reprinted
Sessional
Volume of
Acts of
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of Western
Australia
for year
1935 and
further
amended by
Acts Nos.
22 of 1940,
25 of 1943,
7 of 1953 and
48 of 1958.

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

S. 4
amended.

3. Section four of the principal Act is amended by substituting for the figure, "7" in line two, the figure and letter, "7A".

S. 5
amended.

4. Section five of the principal Act is amended—

(a) by substituting for the interpretation, "Laboratory" the following interpretation—

"Laboratory" means the State X-ray Laboratory at Kalgoorlie in the State; ;

(b) by adding after the interpretation, "Laboratory" the following interpretation—

"Medical Board" means a Medical Board established under section fourteen of this Act; ; and

(c) by substituting for the figures, "1906" in the last line of the first paragraph of the interpretation, "Mineworker", the figures, "1946".

S. 6
amended.

5. Section six of the principal Act is amended—

(a) by adding after the word, "Laboratory" in line three of paragraph (a) of subsection (1), the passage, ", or by a Medical Board on appeal under section fourteen of this Act";

(b) by adding after the word, "Laboratory" in line three of paragraph (b) of subsection (1), the passage, ", or by a Medical Board on appeal under section fourteen of this Act"; and

(c) by adding after the word, "Laboratory" in line four of subsection (2), the passage, ", or by a Medical Board on appeal under section fourteen of this Act".

6. Subsection (3) of section eight of the principal Act is amended by substituting for the figures, "1906" in line six, the figures, "1946".

S. 8
amended.
Of. Act No.
30 of 1918,
s. 14.

7. Subsection (1) of section twelve of the principal Act is amended by adding after the word, "of" in line one, the passage, "a Medical Board,".

S. 12
amended.

8. Section thirteen of the principal Act is amended—

S. 13
amended.

- (a) by adding after the word, "Laboratory" in line three of subsection (1), the words, "or a Medical Board after an appeal to it under section fourteen of this Act";
- (b) by adding before the word, "if" in line three of subsection (2), the paragraph designation, "(a)";
- (c) by adding after the word, "tuberculosis" in the third last line of subsection (2), the words, "without silicosis";
- (d) by adding after the word, "Laboratory", being the last word in subsection (2), the following—

or by a Medical Board after an appeal to it under section fourteen of this Act; or

- (b) if he was lawfully employed as a mine worker at any time within the period of twelve months next preceding the commencement of this Act, or on or at any time after the commencement of this Act, and also was so employed within the period of two years next preceding the date of a certificate, given during the latter year of that period of two years by a medical officer or a medical practitioner appointed under this Act, by the Laboratory, or by a Medical Board after an appeal to it under section fourteen of this Act,

that he is suffering from tuberculosis without silicosis, and if the Medical Board finds that the tuberculosis from which he is so certified to be suffering resulted from his operations in the mining industry, except that where the Minister is satisfied upon advice from the Laboratory that the tubercular condition of a person was a result of the person's operations in the mining industry that person shall be deemed to be a mine worker without such finding of the Medical Board; or

- (c) if he was lawfully employed as a mine worker at any time within the period of twelve months next preceding the commencement of this Act, or on or at any time after the commencement of this Act, and also was employed within the period of three years next preceding the date of a certificate, given by a medical officer, medical practitioner appointed under this Act, by the Laboratory or by a Medical Board on appeal to it under section fourteen of this Act, that he is suffering from silicosis with tuberculosis;
- (e) by substituting for the passage, "1912-1924" in the fifth last line of subsection (2A), the figures, "1912";
- (f) by substituting for the passage, "1906-1938" in line nineteen of subsection (3a), the figures, "1946";
- (g) by repealing and re-enacting the first three lines and paragraphs (i) and (ii) of subsection (4) as follows—

(4) Subsection (1) of this section does not apply to a person who, while employed as a mine worker under the authority of a provisional certificate

issued to him under the provisions of subregulation (2) of regulation two hundred and fifty-three of the regulations made under the Mines Regulation Act, 1946, is found upon examination by a medical officer or medical practitioner appointed under this Act or by the Laboratory, to be suffering from tuberculosis or tuberculosis with silicosis, unless within two years immediately preceding the date of the issue of the provisional certificate he had been medically examined and issued with either an initial certificate under regulation two hundred and fifty-one of those regulations or a re-admission certificate under regulation two hundred and fifty-two of those regulations or a certificate under subsection (3) of section eight of this Act and, prior to such date of issue of the provisional certificate, he had been lawfully employed by virtue of the initial certificate, re-admission certificate or the certificate issued under that subsection. ;

- (h) by deleting the passage, "either paragraph (i) or paragraph (ii) of" in lines one and two of the proviso to subsection (4);
- (i) by substituting for the passage, "the second proviso to regulation six (e)" in line eight of the proviso to subsection (4), the passage, "subregulation (3) of regulation two hundred and fifty-three"; and
- (j) by substituting for the figures, "1906" in the fourth last line of the proviso to subsection (4), the figures, "1946".

9. Section fourteen of the principal Act is repealed and re-enacted as follows—

S. 14
repealed and
re-enacted.

14. (1) For the purposes of this Act a Medical Board may from time to time be established having the duties imposed and the powers conferred by this Act.

Appeals to
Medical
Board.

(2) A Medical Board shall consist of three members of whom—

- (a) one shall be the medical officer appointed under section seven of this Act, who has given the certificate showing a diagnosis against which an appeal to a Medical Board under this section has been made;
- (b) one shall be a qualified medical practitioner registered under the Medical Act, 1894, nominated by the Commissioner of Public Health; and
- (c) one shall be a qualified medical practitioner registered under that Act, nominated by the appellant.

(3) Each member of a Medical Board is entitled to such remuneration and allowances as the Governor determines from time to time.

(4) Subject to the provisions of this Act, a Medical Board has jurisdiction—

- (a) to hear and determine an appeal, by a person who has been examined under the provisions of this Act, against any diagnosis made by a medical officer or medical practitioner appointed under this Act or the Laboratory; and
- (b) to determine for the purposes of this Act whether tuberculosis found in a person at any time during the second year of his ceasing to carry on operations in a mining industry, resulted from his employment in that industry,

and the decision of the Medical Board thereon is final and conclusive.

(5) As soon as practicable after an appeal has been duly lodged under this section, the Minister shall cause a Medical Board to be constituted in accordance with subsection (2) of this section and the Medical Board, when so constituted, shall fix the earliest convenient time for hearing the appeal.

(6) The jurisdiction of a Medical Board shall be exercised by the three members thereof sitting together, but if all the members are not unanimous upon any appeal before it, the decision of the majority of those members prevails and shall be deemed to be the decision of the Medical Board.

(7) An appeal under this section to a Medical Board shall be made in the prescribed manner and form and within the prescribed time.

(8) The decision of a Medical Board on an appeal against a diagnosis by the Laboratory shall in each case be sent by the Medical Board to the Minister on the prescribed certificate and a copy thereof shall also be sent by the Medical Board to the Laboratory.

(9) Where the Minister receives a certificate in accordance with subsection (8) of this section, effect shall be given to the decision incorporated in the certificate according to its tenor, and as though it were a certificate issued by the Laboratory that made the diagnosis, the subject of appeal.

(10) Where a laboratory receives a copy of the certificate in accordance with subsection (8) of this section, it shall give effect to the decision of the Medical Board that is incorporated, as if the condition of the appellant as determined by that decision existed on the date of the diagnosis of the laboratory, that is the subject of appeal.

(11) A Medical Board shall report to the Minister in the prescribed certificate any determination that it makes under paragraph (b) of subsection (4) of this section and if the determination is to the effect that the tubercular condition of a person—

- (a) was a direct result of that person's employment in the mining industry, the person shall be deemed to be a mine worker within the meaning of section thirteen of this Act and the Minister shall notify the person in writing accordingly; or

(b) was not the result of that person's employment in the mining industry, the person is not entitled to any benefits under this Act and the Minister shall notify that person in writing accordingly.

(12) It shall not be necessary for a Medical Board to make a determination under paragraph (b) of subsection (4) of this section where the Minister is satisfied, upon the advice of the Laboratory, that tuberculosis found in a person, at any time during the second year after he ceases to be employed in the mining industry, did in fact directly result from that person's employment in that industry.

S. 15
amended.

10. Section fifteen of the principal Act is amended by adding after the word, "employers" in line five, the words, "and by an accredited representative of any trade union or association of employees having members employed in the mining industry and contributing to the Fund".

S. 16
amended.

11. Section sixteen of the principal Act is amended—

- (a) by adding after the word, "Laboratory" in line three of subsection (1), the words, "or a Medical Board after an appeal to it under section fourteen of this Act";
- (b) by repealing paragraph (b) of subsection (2);
- (c) by substituting for the words, "twelve months" in line six of paragraph (a) of subsection (2), the words, "three years";
- (d) by adding after subsection (2) the following subsection—

(2a) The provisions of subsection (2A) of section thirteen of this Act apply as if repeated in this subsection, but as if the reference in that subsection to

silicosis with tuberculosis or tuberculosis without silicosis were a reference to silicosis in the advanced stage. ;

- (e) by repealing and re-enacting the first three lines and paragraphs (i) and (ii) of subsection (3) as follows—

(3) Subsection (1) of this section does not apply to a person who, while employed as a mine worker under the authority of a provisional certificate issued to him under the provisions of subregulation (2) of regulation two hundred and fifty-three of the regulations made under the Mines Regulation Act, 1946, is found upon examination by a medical officer or medical practitioner appointed under this Act or by the Laboratory to be suffering from silicosis, either in the early or advanced stage, unless within two years immediately preceding the date of the issue of the provisional certificate he had been medically examined by a medical officer or medical practitioner appointed under this Act or the Laboratory, and had worked on either an initial certificate under regulation two hundred and fifty-one of the regulations made under the Mines Regulation Act, 1946, or a re-admission certificate under regulation two hundred and fifty-two of those regulations or a certificate under subsection (3) of section eight of this Act and prior to the date of issue of the provisional certificate had been lawfully employed by virtue of the initial certificate, the re-admission certificate or the certificate issued under that subsection. ;

- (f) by deleting the passage, "either paragraph (i) or (ii) of" in lines one and two of the proviso to subsection (3);

- (g) by substituting for the passage, "the second proviso to regulation six (e)" in line eight of the proviso to subsection (3), the passage "subregulation (3) of regulation two hundred and fifty-three"; and
- (h) by substituting for the figures, "1906" in line nine of the proviso to subsection (3), the figures, "1946".

S. 18
amended.

12. Section eighteen of the principal Act is amended—

- (a) by adding after the word, "Act", being the last word in subsection (3), the passage, " , to which offence absence of criminal intention is no defence"; and
- (b) by substituting for the figures, "1906" in line four of subsection (6), the figures, "1946".

S. 19
amended.

13. Section nineteen of the principal Act is amended—

- (a) by deleting the word, "wilfully" in line one of subsection (6);
- (b) by adding after the word, "Act", being the last word in subsection (6), the passage, " , to which offence absence of criminal intention is no defence"; and
- (c) by substituting for the figures, "1906" in line three of subsection (8) and again in line four of subsection (9), the figures, "1946".

S. 20
amended.

14. Section twenty of the principal Act is amended by substituting for the word, "may" in line three, the word, "shall".

15. Section twenty-two of the principal Act is repealed and re-enacted with amendments as follows—

S. 22
repealed and
re-enacted.

22. (1) The Board may, from time to time, cause to be served on an employer a notice in writing requiring the employer to give to the Board, within such time after service of that notice as the Board specifies therein, particulars in writing of the names and addresses of mine workers employed by the employer and such other particulars in writing relating to those mine workers as the Board requires and specifies in the notice.

Power of
Board to
require from
employer
particulars
relating
to employees
who are
mine workers.
See Act No.
30 of 1918,
s. 31 as
"to serve",
"give" or
"send" and
s. 4 as to
"writing".

(2) An employer who is served with a notice pursuant to subsection (1) of this section and who does not give to the Board the particulars in writing required and specified in the notice within the time specified in the notice commits an offence.

Penalty: Fifty pounds.

16. Section twenty-four of the principal Act is amended—

S. 24
amended.

- (a) by adding after the word, "workers" in line five of subsection (1), the words, "and other contributors";
- (b) by adding after the word, "worker" in line two of subsection (2), the words, "or any other contributor to the fund"; and
- (c) by adding after the word, "worker" in line three of subsection (2), the words, "or other contributor".

17. Subsection (2) of section twenty-seven of the principal Act is amended—

S. 27
amended.

- (a) by adding after the word, "by" in line four, the passage, "employers referred to in paragraph (a) of section thirty-one of this Act to represent"; and

- (b) by adding after the word, "by" in line five, the passage, "persons referred to in paragraph (b) of that section to represent".

S. 31
repealed and
re-enacted.

18. Section thirty-one of the principal Act is repealed and re-enacted as follows—

Electors.

31. Where the Minister fixes the date for an election pursuant to section thirty of this Act—

- (a) only those employers whose names appear at that date in the register kept pursuant to paragraph (a) of section twenty-one of this Act, are qualified and entitled to vote at the election of representatives of employers; and
- (b) only those persons who at that date are contributing to the fund, whether as mine workers or otherwise, are qualified and entitled to vote at the election of representatives of mine workers.

S. 34
amended.

19. Section thirty-four of the principal Act is amended by substituting for the passage, "1903-1930" in the third last line, the figures, "1903".

S. 47
amended.

20. Section forty-seven of the principal Act is amended—

- (a) by substituting for the passage, "1912-1924" in line fourteen of subsection (1), the figures, "1912"; and
- (b) by substituting for the passage commencing with the word, "if" in line seven down to and including the word, "aforesaid", being the last word in subsection (2), the words, "as from the date on which he ceases to work as a mine worker".

21. Section forty-eight of the principal Act is amended— S. 48
amended.

- (a) by substituting for the passage, "1912-1924" where it occurs in the section, the figures, "1912";
- (b) by substituting for the words, "by the local court" in line four and again in line eight of the second proviso to subsection (1), the words, "under that Act";
- (c) by substituting for the words, "while he was receiving by weekly payments of compensation the total sum of seven hundred and fifty pounds" in the last three lines of the second proviso to subsection (1), the passage, "had he been receiving, by weekly payments, compensation under that Act of a total sum equal to the maximum liability under that Act of an employer in respect of weekly payments of compensation for incapacity for work";
- (d) by repealing the third and fourth provisoes to subsection (1); and
- (e) by substituting for the words, "three pounds ten shillings a week" in line eleven of subsection (2), the words, "the amount per week that would have been payable to him under that Act had he received compensation by weekly payments instead of by the lump sum in redemption of them".

22. Section forty-nine of the principal Act is repealed and re-enacted with amendments as follows— S. 49
repealed and
re-enacted.

49. (1) A mine worker, prohibited from employment as a mine worker under section thirteen of this Act on the ground that he is suffering from tuberculosis without silicosis, and his dependants are entitled to receive from the Board out of the fund the benefits prescribed in Scale 1 of the Second Schedule of the regulations.

Benefit in respect of a mine worker prohibited as suffering from tuberculosis without silicosis.

(2) Subject to subsection (3) of this section, the benefits referred to in subsection (1) of this section are payable on—

- (a) the day following the day upon which the mine worker ceases work, if he is employed as a mine worker at a mine on the date of the prohibition;
- (b) the day following the day upon which the mine worker ceases work, if he is employed as a mine worker at a mine after the date of his medical examination under this Act, that resulted in his being prohibited as referred to in subsection (1) of this section, and is not so employed on the date of that prohibition; or
- (c) the day of his medical examination under this Act that resulted in his being so prohibited, if the mine worker is not employed as a mine worker at a mine after the date of that examination and on the date of such prohibition.

(3) Where a mine worker to whom subsection (1) of this section applies, has received—

- (a) a certificate referred to in subparagraph (ii) of paragraph (a) of subsection (3) of section thirteen of this Act; or
- (b) a certificate by the Laboratory that his tubercular condition has been arrested and that he is fit for full time gainful employment other than in the mining industry,

the benefits payable to the mine worker and his dependants (if any) under this section cease as soon thereafter as the Board determines, but if from time to time the Laboratory is satisfied that the mine worker has suffered a recurrence of his tubercular condition and is no longer fit for such full time gainful employment, the mine worker and his dependants (if any) are thereupon, as from that time, again entitled to benefits under this section.

(4) This section applies to a mine worker and his dependants (if any) or a prospector and his dependants (if any) who immediately prior to the date of the coming into operation of the Mine Workers' Relief Act Amendment Act, 1961, were receiving benefits pursuant to the provisions of section forty-nine or fifty-seven of this Act as those provisions existed immediately prior to that date.

23. Section fifty of the principal Act is ^{S. 50} amended—

- (a) by deleting the word, "underground" in line nine of subsection (1);
- (b) by deleting the word, "underground" in lines one and two, four, five and six of the proviso to subsection (3);
- (c) by adding before the word, "work" where it occurs in lines four, five and eight of the proviso to subsection (3), the word, "so";
- (d) by adding after the word, "months" in line eight of the proviso to subsection (3), the words, "or such further time as the Minister may allow"; and
- (e) by deleting the words, "underground as aforesaid" in lines eight and nine of the proviso to subsection (3).

24. Section fifty-two of the principal Act is ^{S. 52} amended—

- (a) by substituting for the words, "one year" in line four of subsection (1), the words, "three years";
- (b) by deleting the word, "underground" in line six of subsection (1);
- (c) by substituting for the passage, "1912-1924" in the sixth last line of subsection (1), the figures, "1912"; and

- (d) by substituting for the passage commencing with the word, "if" down to and including the word, "aforesaid", being the last word in subsection (2), the words, "as from the date when he ceases to work as a mine worker".

S. 53
amended.

25. Section fifty-three of the principal Act is amended—

- (a) by substituting for the passage, "1912-1924" wherever it occurs in the section, the figures, "1912";
- (b) by substituting for the words, "by the local court" in line four and again in line eight of the second proviso to subsection (1), the words, "under that Act";
- (c) by substituting for the words, "while he was receiving by weekly payments of compensation the total sum of seven hundred and fifty pounds" in the last three lines of the second proviso to subsection (1), the passage, "had he been receiving, by weekly payments, compensation under that Act of a total sum equal to the maximum liability under that Act of an employer in respect of weekly payments of compensation for incapacity for work";
- (d) by repealing the third and fourth provisos to subsection (1); and
- (e) by substituting for the words, "three pounds ten shillings a week" in line eleven of subsection (2), the words, "the amount per week that would have been payable to him under that Act had he received compensation by weekly payments instead of by the lump sum in redemption of them".

S. 54
amended.

26. Section fifty-four of the principal Act is amended—

- (a) by deleting the subsection designation, "(1)" after the figures, "54";

- (b) by substituting for the word, "one" in line four of subsection (1), the word, "three";
- (c) by deleting the word, "underground" in line six of that subsection; and
- (d) by repealing subsection (2).

27. Subsection (1) of section fifty-six of the principal Act is amended by substituting for the passage, "1912-1939" in the last line of paragraph (i) to the proviso, the figures, "1912". S. 56
amended.

28. Section fifty-seven of the principal Act is amended— S. 57
amended.

- (a) by repealing subsection (4) and re-enacting it with amendments as follows—

(4) Where a person who, pursuant to this section, has been permitted to contribute to the fund is subsequently found on a medical examination by the Laboratory to be suffering from—

- (a) tuberculosis either while he continues to be engaged in prospecting or within twelve months after he ceases to be so engaged, or within any time during the second twelve months after he so ceases and the Medical Board under section fourteen of this Act determines that the tuberculosis found in the last mentioned period resulted from his being engaged in prospecting; or
- (b) tuberculosis with silicosis or from silicosis in the advanced stage and in both cases while he

continues to be engaged in prospecting or within three years after he ceases to be so engaged,

if that person has in the meantime regularly contributed to the fund in accordance with the regulations and produced to the Board a certificate from the Laboratory as to his medical condition, the person and his dependants are entitled to receive from the Board out of the fund the benefit provided for prohibited mine workers and their dependants under the provisions of section forty-nine of this Act as if he were a mine worker or the dependant of a mine worker entitled to such benefit. ;

(b) by adding after subsection (4) a subsection as follows—

(4a) For the purposes of subsection (2) of section forty-nine of this Act, a person who is a prospector at the time of his medical examination referred to in subsection (4) of this section, shall be deemed to be then employed as a mine worker at a mine and the provisions of the first mentioned subsection apply to that person accordingly.

S. 56A
added.

29. The principal Act is amended by adding after section fifty-six the following section—

Certain
ex mine
workers
and ex
prospectors
entitled to
benefits.

56A. A person who is registered under the provisions of subsection (2) of section fifty of this Act and has left the mining industry and who is either—

- (a) in receipt of an age pension under the Social Services Act 1947 of the Commonwealth as that Act is amended from time to time; or
- (b) in receipt of an invalid pension under that Act as so amended; or

- (c) had been certified by a medical officer appointed under this Act, upon his personal examination or upon receipt of such evidence as he considers sufficient that the person is unable to be gainfully employed through the silicosis in the early stages from which he is suffering and an incapacity due to a malady or disease in respect of which he is not entitled to compensation under the Workers' Compensation Act, 1912,

and the dependants (if any) of that person are entitled to such benefits under the Act as are prescribed in Scale 1 of the Second Schedule in the regulations.

30. The Schedule to the principal Act is amended— The Schedule amended.

- (a) by adding immediately below the words, "Eastern Murchison Goldfield" in line six, the words, "Gascoyne Goldfield";
- (b) by adding immediately below the words, "Phillips River Goldfield", the passage, "South West Mining District (excluding land within the boundaries of the Collie Mineral Field)"; and
- (c) by adding after the words, "West Kimberley Goldfield", the words, "West Pilbara Mining District".
-