

## COAL MINE WORKERS (PENSIONS).

7° GEO. VI., No. XXII.

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No. 27 of 1943.

AN ACT to prohibit the employment and the continuance in employment in the coal mining industry, and in certain callings related thereto, of certain persons of or above the age of sixty years, and to make provision for and with respect to the payment of pensions to such persons upon retirement or incapacity, and to certain other persons, and for other purposes connected therewith.

[Assented to 19th November, 1943.]

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:—

### PART I.—PRELIMINARY.

1. (1) This Act may be cited as the *Coal Mine Workers (Pensions) Act, 1943.* Short title.

(2) This Act is divided into Parts as follows:—

Act divided  
into Parts,

PART I.: ss. 1 to 4—PRELIMINARY.

PART II.: ss. 5 to 16—COMPULSORY RETIREMENT  
AND PENSIONS.

PART III.: ss. 17 to 19—THE TRIBUNAL.

PART IV.: ss. 20 to 22—FUNDS AND CONTRIBU-  
TIONS.

PART V.: ss. 23 to 37—MISCELLANEOUS.

(3) (a) Parts I. and V. of this Act shall commence on the day upon which the assent of His Majesty the King to this Act is signified.

(b) Parts II., III., and IV. of this Act shall, save and except as in this Act otherwise expressly provided, commence upon a day to be appointed by proclamation.

(c) A different day may be so appointed in respect of any of the Parts II., III., and IV. aforesaid.

(4) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that, where any provision of this Act or of the regulations or the application thereof to any person or circumstance is held invalid, the remainder of this Act or of such regulations and the application of such provision to other persons or circumstances shall not be affected.

(5) This Act shall be read and construed with the Coal Mines Regulation Act, 1902-1940.

Interpreta-  
tions.

2. (1) In this Act, unless the context or subject-matter otherwise indicates or requires—

“Injury” means any personal injury by accident happening to a mine worker while he is employed as such and which entitles him to compensation in accordance with the Workers’ Compensation Act, 1912-1941, and includes any disease which causes incapacity which is, in the case of a mine worker, deemed under the said Act to be a personal injury by accident suffered by the mine worker concerned at the mine where he is employed.

“Mine worker” means—

- (a) a person who is employed (whether underground or above ground) in or about a coal mine in the State by the owner of the mine;
- (b) a person who was at any time after the thirty-first day of December, one thousand nine hundred and thirty-seven, engaged in the coal industry in this State;
- (c) a person who has at any time after the thirty-first day of December, one thousand nine hundred and thirty-seven, and before

the commencement of this Act become permanently incapacitated by injury by an accident which happened to him while he was employed in or about a coal mine in this State and which entitled him to compensation in accordance with the provisions of the Workers' Compensation Act, 1912-1941;

- (d) a person who is employed by the owner of a coal mine in this State and who in the course of such employment is principally engaged in the transport of coal from the mine to the point of delivery by the owner; and for the purposes of this paragraph "point of delivery" means the place at which coal is delivered by the owner of the mine to a railway for transportation;
- (e) a check weigher or miner's check inspector;
- (f) a workmen's inspector appointed under the provisions of the Coal Mines Regulation Act, 1902-1940;
- (g) an elected official of an industrial or trade union of employees, or of an association of employees registered as an organisation under the Commonwealth Conciliation and Arbitration Act, 1904-1934, or under the Industrial Arbitration Act, 1912-1941, of which union or organisation the membership is principally confined to persons falling within any one or more of the classes referred to in paragraphs (a) to (f) of this definition and who has actually worked in a coal mine in Western Australia for periods aggregating in all not less than five years:

Provided that subject to subsection (4) of this section the term "mine worker" shall not include—

- (i) a superintendent, manager, or under manager;
- (ii) a person engaged in clerical work in connection with a coal mine;
- (iii) a superintendent or an instructor of any mine rescue corps or body.

“Owner” means any person or body corporate who or which is the immediate proprietor or lessee or occupier of any coal mine or of any part thereof, or any agent or trustee acting on behalf of the owner, and does not include a person or body corporate who or which merely receives a royalty rent or fine from a coal mine, or is merely the proprietor of a coal mine subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the coal mine; but any contractor for the working of any coal mine or any part thereof shall be subject to this Act in like manner as if he were the owner, but so as not to exempt the owner from any liability.

“Pension” means a pension payable under this Act and includes any amounts payable as an addition to a pension.

“Present war” means the war which at the commencement of this Act is existing between His Majesty the King and Germany, Italy, and Japan.

“Tribunal” means the Pensions Tribunal constituted under this Act.

(2) A person shall for the purposes of this Act be deemed to be engaged in the coal mining industry—

- (a) for any period (whether before or after the commencement of Part II. of this Act) during which he is employed as a mine worker;
- (b) for any period (whether before or after the commencement of Part II. of this Act) during which he is unemployed, if immediately before the date upon which he so became unemployed he was employed (whether underground or above ground) in or about a coal mine in this State by the owner of the mine:

Provided that—

- (i) a person shall not be deemed to be “engaged in the coal mining industry” by reason of the operation of paragraph (b) of this subsection unless he satisfies the tribunal that his employment was terminated other-

wise than for misconduct and that his failure to obtain other employment was through no fault on his part; and

- (ii) the period for which any such person is unemployed shall be deemed not to be interrupted by periods during which he is employed upon work of a casual nature:

- (c) who is a member of the Commonwealth Defence Force engaged on war service in the present war, if immediately before the date upon which he became a member as aforesaid he was employed (whether underground or above ground) in or about a coal mine in this State by the owner of the mine, or was a person who by the operation of paragraph (b) of this subsection would be deemed to be "engaged in the coal mining industry."

(3) A reference in any provision of this Act to the "date of retirement" shall, in the application of that provision to or in respect of any particular mine worker, be construed as a reference to the date on and after which the employment of that mine worker as a mine worker would be an offence under section five of this Act.

(4) (a) (i) The Governor may by proclamation extend the definition of "mine worker" to include any one or more of the classes of persons referred to in the proviso to that definition.

(ii) Any such proclamation shall take effect as from the date of the publication thereof in the *Government Gazette* or from a later date, to be specified in the proclamation.

(iii) As from the date upon which any such proclamation takes effect the provisions of this Act shall, subject to any modification which may be made pursuant to paragraph (b) of this subsection, apply to and in respect of persons who are members of the class to which the proclamation relates.

(b) (i) In any proclamation published pursuant to paragraph (a) of this subsection the Governor may specify an age, being later than the age of sixty years, which shall be the retiring age of persons who are members of the class to which the proclamation relates.

(ii) Where a retiring age is so specified the provisions of this Act, in their application to and in respect of persons who are members of such class, shall be deemed to be modified to the extent following that is to say—

Section five of this Act shall have and take effect as if the age specified in the proclamation were substituted for the age of sixty years referred to therein, and references in this Act to the “date of retirement” shall be construed accordingly.

Special provisions as to calculation of periods of employment.

3. (1) Any mine worker who is absent from this State or from his employment upon war service as defined in the Commonwealth Defence Act or upon any kind of work or service in connection with the present war, shall be deemed to have been continuously resident in this State and to have been employed in or about a coal mine during the period of such absence, but such mine worker shall not in respect of the period of such absence be required to pay any contributions to the tribunal in respect of the Fund established under Part IV. of this Act.

(2) Any mine worker who is lawfully absent from work on an award holiday or on annual leave or through sickness or accident not due to his own fault shall be deemed to have actually worked in or about a coal mine during the period of such absence.

(3) Continuous residence in this State shall be deemed not to have been interrupted by occasional absences not exceeding in the aggregate one-tenth of the total period of residence, and for the purposes of this Act the period of any such absence shall be counted as a period of residence in this State.

(4) Any elected official referred to in paragraph (g) of the definition of “Mine worker” in section two shall, for the purposes of this Act be deemed to have actually worked in or about a coal mine in this State or in Australia for the whole of the period during which he held office as such elected official.

(5) For the purposes of this Act the work of persons of the classes referred to in paragraphs (d) and (e) of the definition of “Mine worker” in section two of this Act shall be deemed to be work in or about a coal mine.

4. (1) Where the Governor is satisfied—

Reciprocating  
States.

- (a) that there is in force in any other State of the Commonwealth of Australia legislation providing for the payment of pensions to mine workers and their dependants, and that such pensions are of the like amount and are awarded on the like conditions as the pensions for which provision is made in this Act; and
- (b) that an agreement with such other State has been entered into under subsection (2) of this section,

he may by proclamation declare such other State to be a reciprocating State for the purposes of this Act.

(2) The Minister may, for and on behalf of this State, enter into an agreement with a Minister of the Crown for such other State acting for and on behalf of such other State, with respect to all or any of the following matters:—

- (a) the circumstances in which and the conditions subject to which the tribunal will, for the purposes of this Act, regard any person who is or has been a mine worker in or is or has been engaged in the coal mining industry of such other State, as a person who is or has been a mine worker in or is or has been engaged in the coal mining industry of this State;
- (b) the circumstances in which and the conditions subject to which the tribunal may accept and act upon a certificate furnished by the Minister of the Crown for such other State that any person is or has been a mine worker in or is or has been engaged in the coal mining industry of such other State, and the period or periods during which he has been such a worker or has been so engaged;
- (c) the circumstances in which and the conditions subject to which the fund established under this Act shall be liable for the payment of the whole or any part of any pension awarded to a person of the class referred to in paragraph (a) of this subsection;
- (d) the circumstances in which and the conditions subject to which payment may be made from the fund established under this Act to the

- corresponding funds or funds established under the legislation of such other State;
- (e) the making of such provision as may be necessary to ensure that a mine worker or his dependants shall not become entitled to payment of a pension under this Act as well as under the legislation of such other State;
  - (f) any adjustments which may be necessary, if the proclamation declaring such other State to be a reciprocating State is revoked;
  - (g) any other matter arising under this Act which the Minister may consider necessary or convenient to be included in the agreement.

Provided that no agreement entered into under this subsection shall have any force or effect until the proclamation referred to in subsection (1) of this section has been issued.

(3) The Governor may by proclamation revoke any proclamation issued under subsection (1) of this section, and where a proclamation is so revoked the agreement entered into under subsection (2) of this section shall lapse, except to the extent to which it relates to the matters referred to in paragraph (f) of that subsection.

(4) Where a proclamation declaring any other State to be a reciprocating State as aforesaid has been published and is still in force, the provisions of this Act shall be deemed to be modified to the extent necessary to enable the agreement entered into under subsection (2) of this section with such other State to be carried into effect.

## PART II.—COMPULSORY RETIREMENT AND PENSIONS.

Employment  
after sixty  
years of age  
prohibited.

5. (1) Subject to this section no person shall take into or retain in his employment as a mine worker any person who is of or above the age of sixty years, and no person of or above the age of sixty years shall accept or continue in employment as a mine worker.

(2) (a) Every mine worker who is at the commencement of this Part employed as a mine worker, and who is at such commencement of or above the age of sixty years, shall be retired from and shall vacate his employment as a mine worker upon the expiration of the period of three months after such commencement.



(b) Every mine worker who is at any time after the commencement of this Part employed as a mine worker and who whilst so employed attains the age of sixty years shall be retired from and shall vacate his employment as a mine worker immediately upon attaining that age:

Provided that any such mine worker who attains the age of sixty years at any time within the period of three months after the commencement of this Part shall be retired from and shall vacate his employment as a mine worker upon the expiration of that period.

(c) A person of or above the age of sixty years who is not at the commencement of this Part employed as a mine worker shall not at any time after such commencement be employed as a mine worker.

(3) Any person who neglects or fails to comply with any of the provisions of this section shall be guilty of an offence:

Penalty—Fifty pounds, and, in addition, a daily penalty of one pound for every day or part of a day during which the offence continues.

(4) (a) (i) The tribunal may from time to time, upon special cause being shown, suspend the operation of subsections (1) and (2) of this section in their application to and in respect of any specified employment of a specified mine worker; and any such suspension may be made subject to such conditions (if any) as the tribunal may impose.

(ii) Any such suspension shall be evidenced by a certificate of exemption, which shall be issued by the tribunal, and shall specify the employment in respect of which the operation of the said subsections is suspended, the mine worker to whom the certificate relates, the period for which the certificate is to remain in force, and the conditions (if any) subject to which the operation of the said subsections is suspended.

(b) (i) The tribunal may from time to time suspend the operation of subsections (1) and (2) of this section in their application to and in respect of all mine workers, or of any specified class of mine workers, or of all mine workers other than those of a specified class, and any such suspension may be made subject to such conditions (if any) as the tribunal may impose.

(ii) Any suspension shall be evidenced by a certificate of exemption, which shall be issued by the tribunal, and shall specify the mine to which the certificate relates, and shall indicate whether the certificate relates to the employment of all mine workers, or of a specified class of mine workers or of all mine workers other than those of a specified class. The certificate shall also specify the period for which the same is to remain in force, and the conditions (if any) subject to which the operation of the said subsections is suspended.

(c) The employment of a mine worker, after the date of retirement shall not, where such employment is under and in accordance with a certificate issued under this subsection, constitute an offence.

(5) It shall be a sufficient defence to a charge that a person has taken into or retained in his employment as a mine worker any person who is of or above the age of sixty years, if the person charged proves that the age of the person so employed, as disclosed by the particulars furnished pursuant to regulations made in that behalf, was at the relevant date, less than sixty years.

Pensions—  
mine workers  
who are re-  
tired.

6. (1) Any mine worker who is employed as a mine worker at the commencement of this Part or at the date upon which he attains the age of sixty years, whichever is the later, or who though not so employed had during the twelve months immediately preceding the commencement of this Part, or the date upon which he attained the age of sixty years, whichever is the later, actually worked as a mine worker for not less than sixty days in all during the said period of twelve months, shall be eligible, as from the date of retirement, to a pension of two pounds per week, if he establishes to the satisfaction of the tribunal that—

(a) he has been continuously resident in this State during the five years immediately preceding the date of retirement and—

(i) he has actually worked in or about a coal mine in this State for not less than four hundred days during the said period of five years; or

(ii) before the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, he has

been engaged in the coal mining industry in the State for a period of not less than twenty years in all; or

(b) he has been resident in this State for not less than five years out of the seven years immediately preceding the date of retirement and—

(i) he has actually worked in or about a coal mine in Australia for not less than five hundred days during such period of seven years; or

(ii) before the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, he has been engaged in the coal mining industry in this State for a period of not less than twenty years in all.

Provided that a mine worker who because of ill health, certified to by medical certificate, was unable to work sixty days in his last year of employment, but who has fulfilled all other obligations under this Act, shall not be debarred from receiving a pension under this section.

(2) Any mine worker who is at the commencement of this Part of or above the age of sixty years and who had during the twelve months immediately preceding such commencement actually worked as a mine worker for not less than sixty days in all, but who is unable to satisfy the conditions contained in paragraph (a) or paragraph (b) of subsection (1) of this section, shall be eligible, as from the date of retirement, for a pension of one pound ten shillings per week: Provided that the tribunal shall not award a pension under this subsection to any mine worker unless, in its opinion, the employment of such mine worker was *bona fide*, and was not arranged solely or mainly for the purpose of enabling such mine worker to become eligible for a pension pursuant to this subsection.

(3) Any mine worker who at the date of retirement is not eligible pursuant to subsection (1) or subsection (2) of this section for a pension, shall be eligible, as from the date of retirement, for a pension of one pound ten shillings per week if he establishes to the satisfaction of tribunal—

(a) that during the ten years immediately preceding the commencement of this Part, or the date

upon which he attained the age of sixty years, whichever is the later, he has been engaged in the coal mining industry in this State, and during such period has actually worked in the coal mining industry in this State for a period of not less than seven hundred and fifty days in all; or

- (b) that before the commencement of this Part, or the date upon which he attained the age of sixty years, whichever is the later, he has been engaged in the coal mining industry in this State for a period of not less than twenty years in all:

Provided that a mine worker shall not be eligible for a pension under this subsection if during the three years immediately preceding the commencement of this Part or the date upon which he made application for a pension, whichever is the later, he has not been engaged in the coal mining industry in this State and during such period he has in the opinion of the tribunal been continuously engaged in work other than as a mine worker.

Pension—  
permanent  
incapacity.

7. (1) A mine worker shall, subject to this section, be eligible for a pension of two pounds per week if he proves to the satisfaction of the tribunal—

- (a) that he has been incapacitated by injury arising out of or in the course of his employment as a mine worker, and that such incapacity arose before the commencement of this Part but after the thirty-first day of December, one thousand nine hundred and thirty-seven, or arose after such commencement; and—
- (b) that by reason of such incapacity he is unable to continue in employment as a mine worker, or to be employed in full time employment in any other work; and
- (c) that—
- (i) in any case where the mine worker is of or above the age of sixty years, the incapacity continued until the date of his application for a pension under this section; or

- (ii) in any case where the mine worker is under the age of sixty years, the incapacity is likely to be permanent:

Provided that a mine worker shall not be eligible for a pension under this subsection—

(a) where the injury giving rise to the incapacity was an intentional self-inflicted injury; or

(b) where since the date of the injury giving rise to the incapacity he has in the opinion of the tribunal been continuously engaged for a period of three years in any work other than as a mine worker.

(2) Where a mine worker is awarded a pension pursuant to subsection (1) of this section the total amount payable to him as pension (being the amount payable pursuant to the said subsection and any amounts payable pursuant to section nine of this Act) shall be reduced by the average weekly amount which he earns or which the tribunal finds he might reasonably earn from available employment not inconsistent either in itself or by reason of the conditions under which it is performed with the maintenance of his health in either of the following cases, that is to say—

- (a) where the pension is awarded on the ground of partial incapacity; or
- (b) where the pension was awarded on the ground of total incapacity and subsequently thereto he has so far recovered as to be fit for employment of the character referred to in the foregoing provisions of this subsection.

8. (1) Notwithstanding anything in this Part, the tribunal may award a pension to any mine worker, even though he may not possess the qualifications required by any other provision of this Part, where the tribunal is satisfied that the granting of such a pension would not be inconsistent with the general scope and purpose of this Part and that, having regard to all the circumstances of the particular case, it is just and equitable to award a pension to such mine worker.

Border line cases.

(2) Where the tribunal awards a pension under subsection (1) of this section, it shall determine, having regard to the matters referred to in that subsection, whether the rate of pension shall be two pounds per week or one pound ten shillings per week.

Pensions—  
additional  
payments in  
respect of  
dependants.

9. (1) Where a mine worker becomes eligible for a pension under section six, section seven, or section eight of this Act, he shall also be eligible for an addition to such pension consisting of the following amounts—

- (a) an amount of one pound five shillings per week in respect of his wife, which amount shall be payable until her death or until she ceases to be his wife;
- (b) an amount of eight shillings and sixpence per week in respect of each child (whether legitimate or illegitimate) and step-child under the age of sixteen years, who is totally or mainly dependent on his earnings, which amount shall be payable until such child shall attain the age of sixteen years;
- (c) where no amount is payable under paragraph (a) of this subsection, an amount of one pound per week in respect of one female relative of the mine worker who is totally or mainly dependent on his earnings, which amount shall be payable until her death or marriage or until she ceases to be such a dependant:

Provided that no amount shall be paid under this paragraph unless the female in respect of whom such weekly payment is claimed is over the age of sixteen years.

Pension pay-  
able to de-  
pendants.

10. (1) Upon the death of—

- (a) a person who has been awarded a pension pursuant to section six, section seven, or section eight of this Act; or
- (b) a mine worker whose death has been found to have been due to injury arising out of and in the course of his employment as a mine worker (not being an intentional self-inflicted injury), 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 under paragraph (c) of subsection (1) of section nine of this Act, shall be eligible for a pension of one pound ten shillings per week, which shall be payable until the death, remarriage, or marriage of such widow or female relative, as the case may be, and the persons referred to in paragraph (b) of subsection (1) of section nine of this Act shall also be eligible for pensions of an amount equal to the amounts referred to in that paragraph and subsection, and for the periods specified in that paragraph and subsection.

(2) Except as provided in this section no person who is eligible for a pension under subsection (1) of this section (in this section hereinafter referred to as a "dependant"), shall be entitled to a pension under this Act as well as compensation under the Workers' Compensation Act, 1912-1941, or damages received or recovered independently of that Act in respect of the death of the mine worker.

(3) Where either before or after the commencement of this Part the mine worker upon whose death the dependant is eligible for a pension under subsection (1) of this section had, during his lifetime made a claim against his employer for compensation under the Workers' Compensation Act, 1912-1941, in respect of the injury or where, either before or after the commencement of this Part, the dependant has received or is in receipt of or would, upon application, be entitled to compensation under that Act in respect of the death of the mine worker, the following provisions shall have effect:—

(a) Where the mine worker had accepted an amount payable in accordance with the table set out in the Second Schedule to the Workers' Compensation Act, 1912-1941, or had received a lump sum in redemption of weekly payments under that Act, the disqualification under subsection (2) of this section shall cease to have effect on the expiration of a period ascertained as follows:—

The period shall be the period during which, if a pension had been awarded and paid to the mine worker as from the date upon which compensation became payable,

the total sum paid to him by way of pension at the appropriate rate (including any additional amounts in respect of dependants) would have been equal to the amount payable in accordance with the said table or the amount of the lump sum, as the case may be.

- (b) Where the amount of compensation payable under the Workers' Compensation Act, 1912-1941, in respect of the death of the mine worker has been paid to or to the credit of the dependants of the said mine worker, the disqualification under subsection (2) of this section shall cease to have effect on the expiration of a period ascertained as follows:—

The period shall be the period during which, if pensions had been awarded and paid to the dependants, the total sum paid to all the dependants by way of pension would have been equal to the amount of compensation.

- (c) Where the dependants or any of them who are eligible for pensions under subsection (1) of this section would, upon application, be entitled to compensation under the Workers' Compensation Act, 1912-1941, the disqualification under subsection (2) of this section shall continue until such time as the application is made, and thereafter until such disqualification ceases to have effect pursuant to paragraph (b) of this subsection. Nothing in this paragraph shall be construed as disqualifying the dependants or any of them from receiving a pension by reason only of the fact that proceedings in respect of the death of the mine worker have been taken independently of the Workers' Compensation Act, 1912-1941.

(4) Where, either before or after the commencement of this Part—

- (a) the mine worker upon whose death the dependant is eligible for a pension under subsection (1) of this section has, in his lifetime, received or recovered damages from his employer inde-



pends of the Workers' Compensation Act, 1912-1941, in respect of the injury; or

- (b) the dependant has received or recovered or receives or recovers damages independently of that Act in respect of the death of the mine worker—

the disqualification under subsection (2) of this section shall have effect until the expiration of a period to be determined in accordance with regulations made in that behalf.

Such regulations shall, as far as practicable, apply to and in respect of such damages the like principles as under subsection (3) of this section are applicable to and in respect of compensation.

Without prejudice to the generality of the power to make regulations, the regulations made in relation to the matters referred to in this subsection may prescribe conditions subject to which such principles shall be so applied, and may provide that part only of the amount of such damages is to be taken into account for the purposes of such regulations, and in such case shall prescribe such part or the manner of ascertaining the same.

11. (1) Where a mine worker becomes eligible for a pension pursuant to section six, section seven, or section eight of this Act the pension shall, subject to this Act, be payable to him until his death.

Pensions—  
special pro-  
visions.

(2) No mine worker shall be paid more than one pension under this Act.

(3) The total amount payable to any mine worker by way of pension (including all additions for which he may be eligible under section nine of this Act) shall not exceed the sum of four pounds five shillings and sixpence per week.

12. (1) Except as provided in this section, no mine worker shall be entitled to a pension under any provision of this Part, as well as compensation under the Workers' Compensation Act, 1912-1941, or damages received or recovered independently of that Act in respect of an injury arising out of or in the course of his employment as a mine worker.

No pension  
while com-  
pensation  
payable.

(2) Where either before or after the commencement of this Part a mine worker has received, or is in receipt of or would, upon application, be entitled to compensation under the Workers' Compensation Act, 1912-1941, the following provisions shall have effect—

- (a) where a mine worker accepts or has accepted weekly payments of compensation under that Act, the disqualification under subsection (1) of this section shall cease to have effect on the day upon which his right to such weekly payments ceases;
- (b) where the mine worker accepts an amount payable in accordance with the table set out in the Second Schedule to the Workers' Compensation Act, 1912-1941, or receives or has received a lump sum in redemption of weekly payments under that Act, the disqualification under subsection (1) of this section shall cease to have effect on the expiration of a period ascertained as follows—

The period shall be the period during which, if a pension had been awarded and paid as from the date upon which compensation became payable, the total sum paid to the mine worker as pension (including any additional amounts in respect of dependants) would have been equal to the amount payable in accordance with the said table or the amount of the lump sum, as the case may be.

- (c) where the mine worker would, upon application, be entitled to compensation under the Workers' Compensation Act, 1912-1941, the disqualification under subsection (1) of this section shall continue until such time as he makes the application, and thereafter until such disqualification ceases to have effect pursuant to paragraph (a) or paragraph (b) of this subsection.

Nothing in this paragraph shall be construed as disqualifying the mine worker from receiving a pension by reason only of the fact that proceedings in respect of an injury arising out of or in the course of his employment

as a mine worker have been taken independently of the Workers' Compensation Act, 1912-1941.

(3) Where, either before or after the commencement of this Part, a mine worker who becomes eligible for a pension under sections seven or eight of this Act has received or recovered or receives or recovers damages from his employer independently of the Workers' Compensation Act, 1912-1941, in respect of the injury, the disqualification under subsection (1) of this section shall have effect until the expiration of a period, to be determined in accordance with regulations made in that behalf.

Such regulations shall, as far as practicable, apply to and in respect of such damages the like principles as, under subsection (2) of this section, are applicable to and in respect of compensation.

Without prejudice to the generality of the power to make regulations, the regulations made in relation to the matters referred to in this subsection may prescribe conditions subject to which such principles shall be so applied, and may provide that part only of the amount of such damages is to be taken into account for the purposes of such regulations, and in such case shall prescribe such part or the manner of ascertaining the same.

13. Any amount which a mine worker or his dependants has or have received, or upon application is or are entitled to receive from any invalid, widows, old-age or war pension, or as endowment under the Commonwealth Child Endowment Act, 1941, or, in the case of a permanently incapacitated mine worker under sixty years of age, from earnings derived or which might be derived from available employment of the nature referred to in subsection (2) of section seven of this Act in respect of any period for which a pension is payable under this Act, shall be deducted from the amount payable to him or them, as the case may be, as a pension under this Act.

Deductions  
from pen-  
sions.

14. Notwithstanding anything in this Act hereinbefore contained or implied, in any case where the receipt of a pension under this Act debar or prevents or is likely to debar or prevent a mine worker or a dependant of a mine worker from receiving or becoming eligible

Reduction of  
pensions.

to receive a pension under any of the provisions of the Commonwealth Invalid and Old Age Pensions Act, 1908, as amended, the tribunal shall reduce the pension payable under this Act to twelve shillings and sixpence per week, or any other appropriate amount, so that the person concerned receives or becomes eligible to receive the Commonwealth pension aforesaid.

Provided that, if at any time by virtue of legislation of the Commonwealth Parliament or otherwise the pensions payable under this Act in no way affect the right to or the amount of a pension payable under the Commonwealth Invalid and Old Age Pensions Act, 1908, as amended, the tribunal shall pay to eligible persons the full rate of pension prescribed in this Act.

Increase or  
review of  
pension rates  
for mine  
workers not  
in receipt of  
or entitled  
to Common-  
wealth  
pensions.

15. The pension payable under sections six or seven of this Act to any mine worker who is not in receipt of or is not entitled to receive a pension under the Commonwealth Invalid and Old Age Pensions Act, 1908, as amended, shall be subject to increase or review as hereinafter provided—

- (i) if at the time any mine worker commences to receive a pension under this Act the maximum rate of pension payable under the Commonwealth Invalid and Old Age Pensions Act, 1908, as amended, has been increased above twenty-seven shillings and sixpence per week by virtue of cost of living adjustment under section twenty-four (1A) of the said Commonwealth Act, the pension payable under this Act shall be increased by the amount of the difference between twenty-seven shillings and sixpence per week and the total weekly pension then payable under the Commonwealth Act;
- (ii) the rates of pensions payable under this Act shall be subject to review by the tribunal each quarter and shall be increased (and if increased shall be liable to be decreased) by the same amounts by which the maximum rate of old age pension is increased or decreased for the same period under the provisions of section twenty-four (1A) of the Commonwealth Invalid and Old Age Pensions Act, 1908, as amended.

Adjustments under this subsection shall commence with the first review of the old age pensions made under the said section twenty-four (1A) after the commencement of this Act;

Provided that the rates of pensions shall not in any event be reduced under the provisions of this section to less than the rates prescribed by sections six or seven of this Act.

16. (1) Every application for a pension—

Applications  
for pensions.

- (a) shall be in or to the effect of the prescribed form;
- (b) shall contain such particulars as may be prescribed;
- (c) shall be verified as prescribed;
- (d) shall be lodged with or forwarded to the Registrar.

(2) Upon receipt of any such application the Registrar shall make or cause to be made such investigations as appear to him desirable, or as may be directed, either generally or in any particular case, by the chairman, or by the tribunal.

(3) Upon completion of his investigations, the Registrar shall submit the application, together with a full report of the result of his investigations, to the tribunal.

(4) The tribunal shall thereupon consider the application and the report.

(5) The tribunal may allow or disallow the application, or may refer the application to the Court of Arbitration constituted under the Industrial Arbitration Act, 1912-1941.

(6) The Court of Arbitration shall have jurisdiction to hear and determine any application referred to it under this section.

(7) The power to make regulations conferred on the Court of Arbitration by the Industrial Arbitration Act, 1912-1941, shall extend to the making of regulations for regulating the procedure and practice of such Court in dealing with applications referred to it under this section,

and for prescribing all matters which are necessary or convenient to be prescribed by such regulations in relation to the exercise of the jurisdiction conferred upon that Court by this section.

(8) The decision of the Court of Arbitration on any application referred to it under this section shall be final and conclusive and shall be binding upon the applicant and the tribunal.

(9) Where the tribunal allows the application it shall, in its determination, specify the rate of pension (including any additional amounts) awarded, and the date (whether before or after the date of the application) as from which the pension is to be payable.

(10) Where the tribunal refers the application to the Court of Arbitration, that Court shall in its determination, specify the rate of pension (including additional amounts) awarded, and the date (whether before or after the date of the application) as from which the pension is to be payable.

Any such determination shall be embodied in an order, and a copy thereof shall be lodged with the registrar and filed by him with the records of the tribunal.

### PART III.—THE TRIBUNAL.

The tribunal.

17. (1) There shall be a Pensions Tribunal, which shall exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the tribunal by this Act and the regulations.

(2) The tribunal shall consist of three members, who shall be appointed by the Governor.

(3) Of the members so appointed—

(a) one shall be appointed on the nomination of the Minister and shall, in and by the instrument of appointment, be appointed chairman of the tribunal;

(b) one shall be appointed on the nomination of the owners of coal mines in Western Australia and shall be representative of such owners;

(c) one shall be appointed on the nomination of the mining unions and shall be representative of the employees in the coal mining industry of Western Australia.

In this subsection the expression "mining union" means an industrial or trade union or association of employees registered under the Commonwealth Conciliation and Arbitration Act, 1904-1934, or the Industrial Arbitration Act, 1912-1941, of which union or organisation the membership is comprised of or includes mine workers.

(4) Every nomination shall be made as prescribed, and shall be sufficient, if made by such owners, or such of the unions concerned as the Minister deems sufficient.

(5) If no person or no person able and willing to act as a member of the tribunal is within the time prescribed nominated as the representative of any of the classes of persons referred to in subsection (3) of this section, the member of the tribunal representative of such class may be appointed on the nomination of the Minister.

(6) At any meeting of the tribunal any question or matter shall be decided by a majority of the members present and entitled to vote, and the decision so arrived at shall be the decision of the tribunal.

(7) (a) The member appointed chairman of the tribunal shall, subject to this Act, hold office as such for a period of six years, and shall be eligible for reappointment.

(b) The members of the tribunal, other than the chairman shall, subject to this Act, hold office as such for a period of three years, and shall be eligible for reappointment.

(8) The office of a member of the tribunal shall become vacant if he—

- (a) resigns his office by writing under his hand addressed to the Governor;
- (b) without the permission of the tribunal or the chairman fails to attend three consecutive meetings of the tribunal at which he is entitled to vote;
- (c) is removed from office by the Governor for misbehaviour or incompetence;
- (d) becomes bankrupt or assigns his estate for the benefit of his creditors;
- (e) is convicted of a felony or misdemeanour;

(f) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act, 1903.

(9) On the occurrence of any vacancy in the office of a member of the tribunal the person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.

(10) No act or proceeding of the tribunal shall be invalidated or prejudiced by reason only of the fact that at the time such act or proceeding is done, taken, or commenced there is a vacancy in the office of any member.

(11) (a) The chairman of the tribunal shall be entitled to receive such remuneration, whether by way of annual salary or by way of fees for meetings attended, as the Governor may determine.

(b) The members of the tribunal other than the chairman shall be entitled to receive such remuneration by way of fees for meetings attended, as the Governor may determine.

(c) The members of the tribunal shall be entitled to receive travelling expenses, at such rate as the Governor may determine.

Registrar,  
officers, and  
employees.

18. (1) The Governor may, under and subject to the Public Service Act, 1904-1935, appoint a registrar and such officers and employees as may be necessary for the administration of this Act.

(2) The registrar shall have and may exercise and discharge the powers, authorities, duties, and functions conferred and imposed upon the registrar by or under this Act.

Powers of  
tribunal in  
respect of in-  
quiries and  
investigations.

19. (1) The tribunal, or the chairman or the registrar, may, for the purposes of any inquiry or investigation which it or he is authorised to make—

- (a) summon witnesses;
- (b) receive evidence on oath; and
- (c) require the production of documents.

(2) A person who has been lawfully summoned to appear before the tribunal, the chairman or the registrar, shall not fail to appear, and a person who appears, whether summoned or not, shall not—

- (a) refuse to be sworn as a witness;



(b) fail to answer any question he is lawfully required to answer; or

(c) fail to produce any document he is lawfully required to produce.

(3) Any person who neglects or fails to comply with any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding fifty pounds.

#### PART IV.—FUNDS AND CONTRIBUTIONS.

20. (1) There shall be established under this Act a The Funds.  
Fund, to be known as the Coal Mine Workers' Pensions Fund, to be kept at the Treasury and administered by the tribunal in accordance with this Act.

(2) (a) The Coal Mine Workers' Pensions Fund shall consist of such moneys as are required or authorised by this Act to be paid into that Fund.

(b) There shall be payable out of the Coal Mine Workers' Pensions Fund all pensions payable to mine workers or to the dependants of mine workers who were employed or engaged in the coal mining industry and to mine workers or the dependants of mine workers who, in the opinion of the tribunal, were engaged in work associated with that industry.

(3) The expenses involved in the administration of this Act shall be paid out of the Fund in such proportions as the tribunal may determine.

(4) The Fund shall be under the control of the tribunal and shall be operated upon in the manner prescribed.

(5) Any moneys in the Fund which are not immediately required for the purposes of the Fund may be invested by the tribunal in any manner in which trustees are for the time being authorised to invest trust funds.

Any interest from time to time received from any such investment shall be paid into the Fund the moneys of which are so invested.

21. (1) The tribunal shall, as soon as practicable Contributions.  
after the day appointed and notified for the commencement of Part II. of this Act, make an estimate of the amount required by the Fund for the period commencing

on the day so appointed and notified, and ending on the thirtieth day of June next following for payment of pensions and other sums chargeable upon or payable out of the Fund and for the provision of a reserve in connection with the Fund.

The amount to be provided in that period for the reserve in connection with the Fund shall be such amount as the Governor may direct.

(2) The tribunal shall make an estimate of the amount required by the Fund for the period of twelve months commencing on the first day of July next following the expiration of the period referred to in subsection (1) of this section, and thereafter for each succeeding period of twelve months for payment of pensions and other sums chargeable upon or payable out of the Fund and for the provision of a reserve in connection with the Fund.

The amount to be provided in any year for the reserve in connection with the Fund shall be such amount as the Governor may direct.

Each annual estimate made under this subsection shall be made not later than the thirty-first day of March next preceding the commencement of the period to which the estimate relates.

(3) The amount so estimated by the tribunal in respect of the Fund shall be paid as follows:—

- (a) For the period referred to in subsection (1) of this section the Treasurer shall pay to the tribunal such portion of the sum of two thousand pounds as that period bears to twelve months, and in the next year the Treasurer shall pay to the tribunal a sum equivalent to one-quarter of the total of the amounts estimated by the tribunal pursuant to subsection (2) of this section or the sum of two thousand pounds whichever is the less.

In the succeeding years the Treasurer shall pay a similar proportion of the total annual estimate, with the following limits:—In the second year two thousand five hundred pounds; in the third year three thousand

pounds; in the fourth year three thousand five hundred pounds; in the fifth year four thousand pounds; in the sixth and all succeeding years four thousand five hundred pounds.

Any moneys payable by the Treasurer under this section shall be paid out of moneys provided by Parliament.

(b) The balance of the amount so estimated by the tribunal shall be paid to the tribunal—

(i) as to one-third part thereof, by the mine workers;

(ii) as to two-third parts thereof, by the owners.

(4) The moneys payable by the owners under this section shall be paid in such manner and at such times as may be prescribed.

If in any year the proportion of the contribution deducted from dividends under the provisions of subsection (6) of this section is found to exceed the amount which would result from an impost of two pence on each ton of coal sold by the company in that year the amount of such excess shall be refunded to such company to be distributed amongst the shareholders to whom the dividend would be otherwise payable.

Without prejudice to the generality of the foregoing provisions of this subsection, regulations may prescribe the basis or bases upon which the contributions of individual owners may be assessed.

(5) The moneys payable by the mine workers under this section shall be paid in such manner and at such times as may be prescribed.

If a mine worker has made regular contributions to the Fund for a period of five years and such mine worker resigns or is dismissed from the coal mining industry in circumstances which do not entitle him to a pension under any of the provisions of this Act, the tribunal shall pay to him the amount of the actual contributions paid by him under this Act, irrespective of the cause of his resignation or dismissal.

Without prejudice to the generality of the foregoing provisions of this subsection, the regulations may prescribe the basis or bases upon which the contributions

of individual mine workers are to be assessed and may, notwithstanding the provisions of the Truck Act, The Workmen's Wages Act, the Industrial Arbitration Act, or any award or agreement made thereunder, provide for the collection (by deduction from wages or otherwise) and payment to the tribunal by the employers of mine workers of any such contributions.

(6) Notwithstanding any provision of the memorandum or articles of association of any company which is an owner within the meaning of the Act, or any agreement between any such company and the shareholders thereof, or any rights in that regard which any shareholder or other person may have, and notwithstanding any resolution of any meeting of shareholders to the contrary, the company may in any year deduct from the dividends otherwise payable on its ordinary or preference shares amounts bearing the same proportion to one-half of the total payments made by the company to the Fund in that year as the dividends otherwise payable to the class bears to the total dividends otherwise payable. Provided that a company shall not, in any year, make a deduction from dividends under the provisions of this subsection which shall exceed the amount which would result from an impost of two pence on each ton of coal sold by such company in that year. The provisions of this subsection may be pleaded as an absolute bar to any action, claim, or demands made by any shareholder or other person with respect to any dividend decreased as aforesaid. In the event of any deduction from any dividend in any year under the provisions of this subsection, the amount of the deduction shall not in any manner whatsoever be added to the dividend lawfully payable in any succeeding year

Restriction  
upon increase  
of price of coal.

22. (1) Notwithstanding the provisions of any Act, award or agreement to the contrary no payment to the fund by any owner may be or be deemed to be included in the cost of production of coal and no owner shall in consequence of any payment to the fund increase the price of any coal supplied to any consumer (including the Government or any State instrumentality) except as hereinafter provided.

(2) (a) Where the payment by any owner in any year does not exceed four pence per ton of coal sold by such

owner in that year, such owner may include one half of such payment in the cost of production of the coal and may increase the price of coal accordingly.

(b) Where the payment by any owner in any year exceeds four pence per ton of coal sold by such owner in that year such owner may include the amount of such payment which exceeds two pence per ton of coal sold in the cost of production of the coal and may increase the price of coal accordingly.

#### PART V.—MISCELLANEOUS.

23. Notwithstanding that the commencement of Part II. of this Act may not have been proclaimed, and subject as hereinafter provided, the tribunal may award a pension to any mine worker who having attained the age of sixty years ceases to be engaged in the coal mining industry after the commencement of this Act and before the commencement of Part II. of this Act.

Tribunal may award pension in certain cases.

The tribunal shall not award a pension under this section to any mine worker unless in its opinion the cessation of employment of such mine worker was *bona fide* and was not arranged or did not arise solely or mainly for the purpose of enabling such mine worker to become eligible for a pension pursuant to this section. Subject to the foregoing the tribunal may award a pension under this section in accordance with the same privileges and on similar terms and conditions as are prescribed by Part II. of this Act.

24. From and after the commencement of this Act, the Aged and Infirm Coal Miners' Superannuation Fund established under the provisions of section sixty-eight of the Coal Mines Regulation Act, 1902-1940, and the liability to contribute with respect to such Fund aforesaid, are hereby abolished. The Trustees of the Aged and Infirm Coal Miners' Superannuation Fund shall pay to the tribunal any balance of the said Fund so that such balance shall form part of the funds of the Coal Mine Workers Pensions Fund established under this Act.

Funds established under provisions of Coal Mines Regulation Act, 1902-1940.

The contributions of owners of mines and employees to the Coal Mines Accident Relief Fund under the provisions of section sixty-seven of the Coal Mines Regulation Act, 1902-1940, shall be reduced by one-eighth, and

section sixty-seven aforesaid shall be deemed to be amended accordingly as from the commencement of this Act.

Any miner within the meaning of the Coal Mines Regulation Act, 1902-1940, who is at the date of the commencement of this Part in receipt of any benefits from the Aged and Infirm Coal Miners' Superannuation Fund shall be eligible as from the date of the commencement of this Part to payment by the tribunal out of the Coal Mine Workers' Pensions Fund of a pension of twelve shillings and sixpence per week, without any deduction, whether under the provisions of Part II. of this Act when proclaimed or otherwise. If any miner receives a pension under the provisions of this section and subsequently becomes eligible for a pension pursuant to section six, section seven, or section eight, of this Act the tribunal shall thereupon discontinue the payment of the pension under this section.

Pensions to  
be inalien-  
able.

25. (1) Subject to this Act, a pension shall be absolutely inalienable, whether by way or in consequence of sale, assignment, charge, execution, insolvency, or otherwise howsoever:

Provided that nothing herein shall be construed to prevent the tribunal, with or without the consent of the pensioner, from paying the whole or any portion of the pension to any other person for the use of the pensioner, or in satisfaction, to the extent thereof, of any of his just debts or liabilities.

(2) Every person commits an offence and shall be liable to a penalty not exceeding fifty pounds who demands or accepts from any pensioner any certificate or any acknowledgment or undertaking that would constitute a legal or equitable assignment of or charge upon any pension, if such pension were capable of being legally assigned or charged.

Suspension of  
pension rights  
in certain  
events—  
alternative  
pensions to  
dependants.

26. (1) Where any mine worker who has been awarded a pension pursuant to this Act is sentenced to imprisonment for any period in excess of one month, his pension rights pursuant to this Act shall be suspended during the period of such imprisonment, and any person who would, if the mine worker were dead, have been eligible for a pension under section ten of this Act, shall

be eligible for a pension in accordance with that section during the period of such imprisonment as if the mine worker were dead.

(2) Where any mine worker who is eligible for or who has been awarded a pension pursuant to this Act becomes an insane patient within the meaning of the Lunacy Act, 1903, his pension rights pursuant to this Act shall be suspended while he continues to be such an insane patient, and any person who would, if the mine worker were dead, have been eligible for a pension under section ten of this Act, shall be eligible for a pension in accordance with that section during the period for which the mine worker continues to be an insane patient, as if the mine worker were dead, and shall be entitled to retain the whole of the said pension for his own use and benefit absolutely, the provisions of any other Act notwithstanding.

(3) The wife of any mine worker eligible for or in receipt of a pension under this Act who has been deserted by her husband or who has been left by him without means of support and who satisfies the tribunal—

(a) that she has taken proceedings against her husband for an order under the Married Women's Protection Act, 1922, or the Child Welfare Act, 1907-1941, and either that she has failed to obtain an order, or that the order, if made, has not been complied with; and

(b) that the whereabouts of her husband are not known,

shall be eligible for a pension in accordance with section ten of this Act, as if the mine worker were dead, during the period for which she is so deserted or left without means of support.

Where a pension is awarded to a deserted wife pursuant to this subsection, the tribunal may suspend the pension payable to the mine worker, or may direct that such pension is to be reduced by the amount of the pension payable to the deserted wife.

27. Where a person entitled to payment of a pension under this Act is for any cause unable to give a valid receipt for such payment, the tribunal or the chairman may direct that payment be made to some person on his behalf, and the receipt of such person for any payment so made shall be a valid discharge.

Appointment  
of person to  
receive pen-  
sion.

Reference to  
Court of  
Arbitration.

28. (1) The Minister may refer any question arising under this Act to the Court of Arbitration.

All persons interested and appearing before the Court of Arbitration, including the Minister and the tribunal, shall be entitled to be heard.

(2) The power to make regulations conferred by the Industrial Arbitration Act, 1912-1941, shall extend to the making of regulations by the Court of Arbitration arising under and pursuant to this section, and for prescribing all matters which are necessary or convenient to be prescribed by such regulations in relation to the exercise or discharge of the functions of that Court under this section.

Unpaid con-  
tributions re-  
coverable as  
debt.

29. (1) Any part of the contributions required to be paid by section twenty-one of this Act that is not paid on the due date, and all penalties incurred in respect thereof shall constitute a debt due and payable to the Crown, and shall be recoverable in any court of competent jurisdiction by the chairman of the tribunal on behalf of the Crown by suit in his official name.

(2) If in any proceedings against any person for failure to pay any contribution payable under section twenty-one of this Act within the time prescribed the defendant alleges that he is exempt from the obligation to pay the contribution, or that he had paid the contribution, the burden of proving such exemption or payment shall be on him.

Recovery of  
over-pay-  
ments of pen-  
sions.

30. (1) Where it is found that any pension or instalment of a pension which is not payable has been paid, or that any sum paid by way of pension or instalment of pension is in excess of the amount so payable, the amount wrongly paid may be recovered as a debt due to the Crown at the suit of the chairman of the tribunal in his official name, or, where it is practicable so to do, the tribunal may make any necessary adjustments in any instalments of the same or any other pension thereafter becoming payable.

(2) Nothing in this section shall relieve the person wrongly receiving any such payment from any other liability in respect of any fraud committed by him.



31. (1) The tribunal shall cause to be kept proper books of account, and shall, as soon as practicable after the thirtieth day of June in each year, prepare and transmit to the Minister for presentation to Parliament statements of accounts, in a form approved by the Auditor General, exhibiting a true and correct view of the financial position and transactions of the tribunal.

Accounts and audit.

(2) The accounts of the tribunal shall be audited by the Auditor General, who shall have, in respect thereof, all the powers conferred on the Auditor General by any law now or hereafter to be in force relating to the audit of public accounts; and the Audit Act, 1904, shall apply to the tribunal, the members of the tribunal, and the officers and employees concerned in the administration of this Act, in the same manner as it applies to accounting officers of public departments.

32. The Minister shall once in every three years, and may at such other times as he thinks fit, cause an examination and report to be made by the Government Actuary upon the assets and liabilities of each of the Funds established under section twenty of this Act.

Actuarial investigation of funds.

33. For the purpose of providing for the requirements of the Funds established under section twenty of this Act the Treasurer may, in and for any period in respect of which a contribution is payable by him under section twenty-one of this Act, make advances against the contribution payable by him in respect of that period, to the fund, of such amount or amounts (not exceeding in the aggregate the amount of the contribution) as may in his opinion be necessary.

Advances by Treasury.

Any such advance shall be in satisfaction in whole or in part of the contribution so payable in respect of that period.

34. (1) Any person who, for the purpose of obtaining any pension under this Act, for himself or for any other person, or for the purpose of obtaining exemption from any obligation under this Act, for himself or for any other person, makes any false statement to or otherwise misleads or attempts to mislead the tribunal, the registrar, or any officer concerned in the administration of this Act or Court of Arbitration, or any other person

Offences.

whomsoever or otherwise, commits any fraudulent act or omission, shall be guilty of an offence, and shall be liable on summary conviction to a penalty not exceeding one hundred pounds, or to imprisonment for twelve months.

(2) Where a person is convicted of an offence under subsection (1) of this section, and it is made to appear that, in consequence of such offence he was wrongly paid any amount by way of pension, the Court may, in addition to the penalty or punishment referred to in that subsection, impose a penalty or additional penalty not exceeding twice the amount so wrongly paid.

Recovery of penalties.

35. (1) Any penalty imposed by or under this Act or the regulations may be recovered in a summary manner before a stipendiary or police magistrate.

(2) Any magistrate may in any proceedings for a penalty under this Act or the regulations make such order as to the payment of costs as may be thought just, and may assess the amount of such costs.

Fines and penalties to be paid into appropriate Fund.

36. All fines and penalties paid or recovered under this Act or the regulations shall be paid to the tribunal, and shall be paid by it into the fund.

Regulations.

37. (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular and without prejudice to the generality of subsection (1) of this section the regulations may—

- (a) prescribe the manner and form of claims for pensions, the persons by whom claims may be made, and the particulars to be furnished in support of such claims;
- (b) prescribe the general conditions governing the allowance of pensions and the manner in which such allowance is to be signified or evidenced;
- (c) prescribe the general conditions governing the payment of pensions and the manner in which and times at which payment is to be made;

- (d) make provision for the repayment of contributions or part thereof to contributors in such cases (if any), and subject to such conditions as may be prescribed;
- (e) require employers of mine workers to keep records in such manner or in such form as may be prescribed, showing the commencement and cessation of the employment of each mine worker, and such other particulars as may be prescribed;
- (f) require any person to whom a pension is payable under this Act, to make full and complete disclosure to the tribunal in relation to any amounts which, by this Act, are directed to be deducted from the pension so payable, and to make such disclosure in such manner and at such times as the tribunal may direct either generally or in any particular case or class of cases.

(3) The regulations may impose a penalty not exceeding twenty pounds for any breach of the regulations.