

MINE WORKERS' RELIEF.

23° GEO. V., No. XXXVII.

No. 37 of 1932.

AN ACT relating to the Relief of Mine Workers.

[Assented to 30th December, 1932.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Mine Workers' Relief Act*, 1932, and shall come into operation on a day to be fixed by proclamation.*

Short title and
commencement.

2. This Act shall operate and have effect only in those portions of the State mentioned in the schedule to this Act and in such other portions of the State as the Governor may by Order in Council declare.

Extent of oper-
ation.

3. (1.) After the commencement of this Act, the Miners' Phthisis Act, 1922 (No. 16 of 1923), and its amendments and the regulations now or from time to time hereafter in force thereunder shall continue to apply to those persons who, prior to the commencement of this Act, had been prohibited from being employed on, in, or about a mine under section eight of the said Act, and to the dependants of such persons, and also to those persons, being subject to section eight aforesaid, in relation to whom the question has arisen and is in course of being determined at the commencement of

Application of
Miners' Phthisis
Act, 1922, and
this Act.

this Act, whether or not such persons shall be prohibited from employment under the said section eight; but after the commencement of this Act, save and except in the case of such last-mentioned persons, no person shall be prohibited from being employed on, in, or about a mine under the said section eight.

(2.) This Act shall not apply to any person who, prior to the commencement of this Act, has been prohibited from being employed on, in, or about a mine under section eight of the Miners' Phthisis Act, 1922, and who, at the commencement of this Act, is receiving or whose dependants are receiving compensation under the said Act or the regulations thereunder, or to any person in relation to whom the question has arisen prior to and is in course of being determined at the commencement of this Act whether or not such person shall be prohibited from employment under the said section eight; but save as aforesaid and subject to section two, this Act shall apply to all persons who are employed as mine workers as herein defined at or after the commencement of this Act.

Act divided into
Parts.

4. This Act is divided into Parts as follows:—

PART I.—Ss. 5 to 7—PRELIMINARY.

PART II.—Ss. 8 to 16—PROHIBITION OF MINE WORKERS.

PART III.—Ss. 17 to 44—MINE WORKERS' RELIEF FUND.

Division (1).—Ss. 17 to 26—Establishment of Fund.

Division (2).—Ss. 27 to 40—Constitution of Board.

Division (3).—Ss. 41 to 44—Administration of the Fund.

PART IV.—Ss. 45 to 57—BENEFITS.

Division (1).—Ss. 45 to 55—Prohibited and Notified Mine Workers.

Division (2).—Ss. 56 and 57—Mine Workers Generally.

PART V.—Ss. 58 to 62—MISCELLANEOUS.

THE SCHEDULE.

Districts.

PART I.—PRELIMINARY.

5. In this Act, subject to the context—

“Board” or “the Board” means the Mine Workers’ Relief Board constituted under this Act. Interpretation.

“Department” means the Department of Mines.

“Dependants” includes wife, widow until she remarries, father, mother, grandfather, grandmother, step-father, step-mother; and also those persons being under the age of sixteen years who bear to the mine worker the following relationships, namely, son (whether legitimate or illegitimate), daughter (whether legitimate or illegitimate), grandson, grand-daughter, step-son, step-daughter, brother, sister, half-brother or half-sister.

“Employer” means any person, including a body corporate, by whom or on whose behalf any other person is employed as a mine worker, and includes an agent or manager of an employer.

The term also includes, in the case of a tributer, the lessee or owner of the mine or portion of a mine which is let on tribute under a tribute agreement to the tributer.

“Fund” or “the Fund” means the Mine Workers’ Relief Fund established under and for the purposes of this Act.

“Laboratory” means the Commonwealth Health Laboratory at Kalgoorlie.

“Mine” and “Mining” have the same meanings as in the Mining Act, 1904.

“Mine worker” means a person employed under a contract of service on, in, or about a mine to perform manual or other labour, either on the surface or underground, in and as part of the general mining operations carried on in the course of working a mine.

The term includes a tributer who does the work of a mine worker, and also a district inspector or workmen’s inspector appointed under the Mines Regulation Act, 1906.

Subject to the approval of the Governor in each case, the term also includes a person who whilst employed as a mine worker either before or after the commencement of this Act, left or leaves such employment in order to be employed in another class of

employment directly or indirectly connected with the mining industry in Western Australia, and whilst so employed contributes to the fund as a mine worker under this Act.

“Minister” means the Minister for Mines or other responsible Minister of the Crown for the time being charged with the administration of this Act.

“Silicosis” means silicosis of the lungs.

“Tributer” and “Tribute agreement” have the same meanings as in the Mining Act, 1904.

“Tuberculosis” means tuberculosis of the lungs or of the respiratory organs and tuberculosis of the glands and other parts of the body where the cause of such disease may legitimately be attributed to the nature of their employment as mine workers.

“Underground,” in relation to the work or employment of a mine worker, includes work or employment—

- (a) beneath the natural surface of the ground; and
- (b) upon or about dry crushing mills; and
- (c) upon or about rock crushers in a rock crushing station; and
- (d) in a sample crushing room; and
- (e) in an assay office or change house; and
- (f) in any tailings dump; and
- (g) any other work or employment which the Governor by Order in Council may declare to be underground work or employment.

Persons suffering from silicosis or tuberculosis.

6. For the purposes of this Act—

- (1) A person shall be deemed to be suffering from or to have suffered from silicosis—
 - (a) in the early stage, when it is found by a medical officer or medical practitioner appointed under this Act, or by the Laboratory, that definite and specific physical signs of silicosis are or have been present, and that capacity for work is or has been impaired by that disease, although not seriously and permanently; and
 - (b) in the advanced stage, when it is found by a medical officer or medical practitioner appointed under this Act, or by the Laboratory, that definite and specific physical signs of silicosis are or have been present, and that capacity for work is or has been seriously and permanently impaired by that disease.

(2) A person shall be deemed to be suffering from or to have suffered from tuberculosis when it is found by a medical officer or medical practitioner appointed under this Act or by the Laboratory either—

(a) that such person is expectorating the tubercle bacilli; or

(b) that such person has closed tuberculosis to such a degree as seriously to impair his capacity for work and to render it advisable for the benefit of his health to prohibit him from working as a mine worker.

7. The Minister may employ such Government medical officers and medical practitioners and such inspectors and other officers as he may think fit for the purposes of this Act, and shall issue to every such practitioner, inspector or officer a certificate in writing of his appointment.

Appointment of officers.

PART II.—PROHIBITION OF MINE WORKERS.

8. (1.) It shall be the duty of every mine worker to submit himself from time to time to a medical officer or medical practitioner so appointed, or to the Laboratory, for examination for symptoms of silicosis or tuberculosis, whenever required so to do by the Minister or any such medical officer or medical practitioner.

Medical examination.

(2.) Any mine worker who fails when required as aforesaid to submit himself to any medical examination for the purposes aforesaid at the time and place stated in the requisition, shall be guilty of an offence against this Act.

Penalty: Fifty pounds.

(3.) After every medical examination or re-examination of any person under this section, if such person is found not to be suffering from tuberculosis, he shall be supplied with a certificate in the prescribed form to that effect, and such certificate until revoked shall, subject to the Mines Regulation Act, 1906, and the regulations thereunder, entitle such person either to continue working or to be employed as a mine worker.

9. (1.) Every employer of mine workers shall—

Duty of employers.

(a) furnish to a medical officer or medical practitioner as aforesaid, or to the Under Secretary for Mines, a list of all mine workers from time to time employed

by him whenever required so to do by such medical officer, medical practitioner, or Under Secretary for Mines; and

- (b) afford to all mine workers employed by him all reasonable facilities for such mine workers to submit themselves, without loss of pay, to medical examination under this Act; and
- (c) permit any medical officer or medical practitioner appointed as aforesaid to have access to the mine of the employer for the purposes of and in the execution of his duties under this Act.

(2.) Any employer who fails to observe or comply with any of the provisions of this section shall be guilty of an offence against this Act.

Penalty: Fifty pounds.

Powers and duties
of inspectors and
other officers.

10. The powers and duties of inspectors and other officers appointed by the Minister under this Act shall be such as may be from time to time prescribed under and for the purposes of this Act.

Penalty for obstruction
of officers.

11. Any employer and any mine worker who resists, hinders or obstructs a medical officer or medical practitioner or any inspector or other officer in the exercise and performance of his powers and duties under this Act or the regulations thereunder, or does any act or thing to prevent or discourage any mine worker from submitting himself to any medical examination under this Act, shall be guilty of an offence against this Act.

Penalty: Fifty pounds.

Reports.

12. (1.) It shall be the duty of every medical officer and medical practitioner appointed under this Act from time to time to report to the Minister as prescribed.

(2.) In any report under this Act which may be published or open to inspection, the names of the mine workers who may have submitted themselves to medical examination shall not be disclosed, except in so far as may be necessary for the purposes of this Act.

Employment of
mine workers
suffering from
tuberculosis may
be prohibited.

13. (1.) If a medical officer or practitioner appointed under this Act or the laboratory reports in writing to the Minister that a mine worker named therein is suffering from

tuberculosis without silicosis, or from silicosis with tuberculosis, the Minister shall, by notice in the prescribed form served on such mine worker and his employer, prohibit the employment of such mine worker as a mine worker.

(2.) For the purposes of subsection one hereof, a person who was lawfully employed as a mine worker on or at any time after the commencement of this Act shall be deemed to be a mine worker, notwithstanding that he has ceased to be so employed, if he has been a mine worker within twelve months next preceding the date of a certificate that he is suffering from tuberculosis given by a medical officer or medical practitioner appointed under this Act, or by the laboratory.

(3.) After service of a notice under subsection one hereof, and unless and until such notice is set aside on appeal as hereinafter provided for, the mine worker to whom the notice relates shall neither work nor be employed as a mine worker. Any mine worker who works and any employer who employs a person as a mine worker in contravention of this section shall be guilty of an offence against this Act.

Penalty: Fifty pounds, and in addition a daily penalty of forty shillings for every day or part of a day during which the offence continues.

14. (1.) Any mine worker served with a notice under section thirteen of this Act may, within fourteen days after the service of the notice, appeal therefrom in the manner prescribed, provided that the notice of such appeal has annexed thereto a certificate in writing under the hand of a duly qualified medical practitioner that in his opinion the appellant is not suffering from tuberculosis. Appeal.

(2.) The appeal shall be heard and determined by a Board consisting of the principal medical officer or a deputy appointed by him, and two duly qualified medical practitioners, one of whom shall be nominated by the appellant and the other by the Minister.

(3.) If a majority of the said Board certify in writing that in their opinion the appellant is not suffering from tuberculosis, the notice served on the appellant and which is the subject of the appeal shall be set aside, but otherwise shall continue to have effect.

(4.) The decision of the majority of the said Board upon any question of fact material to the appeal shall be final, and shall not be subject to appeal or to review by any court of law, and shall be binding upon any court of law.

(5.) The certificate of the majority of the Board setting out their decision shall be filed in the department, and a copy thereof shall be issued to the appellant who may inspect the original so filed as aforesaid.

(6.) It shall not be a disqualification for appointment as a member of the said Board that the medical practitioner nominated by the appellant gave the certificate annexed to the appellant's notice of appeal.

Register of prohibited mine workers.

15. A register in the prescribed form shall be kept in the department, in which shall be entered the names of mine workers who have been prohibited from employment under section thirteen of this Act. The register shall be open for inspection by employers at all reasonable times without payment.

Mine workers suffering from silicosis to be notified.

16. (1.) Whenever a medical officer or medical practitioner appointed under this Act or the laboratory reports in writing to the Minister that a mine worker named in such report is suffering from silicosis, either in the early or in the advanced stage, but that the mine worker is not suffering from tuberculosis, the Minister shall by notice in the prescribed form notify such mine worker accordingly.

(2.) For the purposes of this section a person shall be deemed to be a mine worker if—

- (a) having been lawfully employed as a mine worker on or after the commencement of this Act by virtue of a certificate issued by a medical officer or medical practitioner appointed under this Act or by the laboratory and having ceased to be so employed, within twelve months after ceasing to be so employed he is found to be suffering from silicosis upon a medical examination by a medical officer or medical practitioner appointed under this Act or by the laboratory; or
- (b) having, prior to the commencement of this Act, received notice under subsection seven of section eight of the Miners' Phthisis Act, 1922, that he was suffering from miners' phthisis, was lawfully employed as a miner in a mine to which this Act applies within two years immediately preceding the commencement of this Act, and within three months or such further time as the Minister may allow after the commencement of this Act is found to be suffering from silicosis upon a medical exam-

ination by a medical officer or a medical practitioner appointed under this Act or by the laboratory.

PART III.—MINE WORKERS' RELIEF FUND.

Division (1).—Establishment of the Fund.

17. (1.) For the purposes of this Act there shall be established a fund to be called "The Mine Workers' Relief Fund," which shall be administered by the Board.

Mine Workers'
Relief Fund.

(2.) All moneys from time to time belonging to the fund shall be deposited in an account to be called "The Mine Workers' Relief Fund Account" in such bank or banks as may be approved by the Minister.

(3.) The fund shall consist of—

- (a) contributions made by employers and mine workers under this Act; and
- (b) contributions and advances by the Treasurer under this Act; and
- (c) penalties imposed upon convictions of offences against this Act, which are hereby declared to be payable into the fund; and
- (d) subject to section twenty-six of this Act, moneys and investments which are handed over to the Board under the authority of this Act by the Mine Workers' Relief Fund Incorporated of Kalgoorlie.

18. (1.) Every employer, whilst he is employing mine workers, shall be liable to contribute to the fund on the occasion of each and every periodical payment of wages to such mine workers an amount equal to the total amount of the contributions payable by such mine workers on the same occasion under this Act.

Contributions by
employers.

(2.) The amount of such contributions shall be paid by the employer to the Board as and when the employer is required by this Act to pay to the Board the contributions of mine workers collected by him as provided for in this Act, and until paid shall be a debt due from the employer to the Board recoverable at the suit of the Board in any court of competent jurisdiction.

(3.) Any employer who fails to pay the amount of any contribution in accordance with this section, whether such payment is demanded or not, or by any act or omission evades or attempts to evade payment of the contribution for which he is liable, or makes any false statement, or by any other means defrauds or attempts to defraud the Board of any

contribution for which he is liable, shall be guilty of an offence against this Act.

Penalty: One hundred pounds.

(4.) Every employer whose name is entered in the register of employers hereinafter provided for shall be deemed to be employing mine workers until he proves the contrary.

(5.) For the purposes of this section—

(a) a tributer who is employing mine workers shall be deemed to be the employer of such mine workers; and

(b) where a tributer is a mine worker, he shall be deemed to receive periodical payments of wages at the same time as other mine workers employed in the mine for the purpose of ascertaining the amount of the contribution in relation to such tributer payable by the lessee or owner of the mine as the employer of such tributer.

(6.) Where any person is employed as a mine worker under and subject to a special certificate granted to him under the regulations made under the Mines Regulation Act, 1906, and the employment of such person must be determined upon cancellation of such special certificate by the Minister, then, notwithstanding anything to the contrary contained in this section, the employer shall not be liable to contribute to the fund in respect of such employee.

Contributions by
mine workers.

19. (1.) Every mine worker shall be liable to contribute to the fund at the rate prescribed on the occasion of each and every periodical payment of wages to him by his employer.

(2.) In order to facilitate the collection of the contributions of mine workers, the employer, when making a periodical payment of wages to mine workers employed by him shall deduct from the wages then payable to each mine worker the amount of the contribution payable by such mine worker under this section, and shall forthwith remit to the Board the contributions so deducted, together with a list showing the names of all the mine workers and the amount of the contribution deducted from their wages respectively.

(3.) The amount of contributions deducted by the employer as aforesaid shall, until paid by him to the Board, be a debt due from him to the Board recoverable at the suit of the Board in any court of competent jurisdiction.

(4.) Any employer who fails to deduct from the wages of a mine worker the amount of the contribution payable by such mine worker, shall be personally responsible to the Board for the payment of such contribution, and until paid to the Board the amount thereof shall be a debt due from the employer to the Board recoverable at the suit of the Board in any court of competent jurisdiction.

(5) Where an employer inadvertently or without any wrongful intent fails to deduct from the wages of a mine worker the amount of the contribution payable by such mine worker on the occasion of a periodical payment of wages, and nevertheless has paid the amount of such contribution to the Board, the employer shall be entitled to deduct the amount so paid out of any subsequent wages due to the mine worker or otherwise to recover the same as a debt due to him from the mine worker.

(6.) Any employer who wilfully fails to deduct from the wages of a mine worker the amount of the contribution payable by him, or having deducted such contribution fails to remit the same to the Board within a reasonable time, whether payment thereof is demanded or not, or by any act or omission aids, suffers, or permits a mine worker to evade or to attempt to evade payment of contribution under this Act, or by any other means to defraud or attempt to defraud the Board of any contribution payable by the mine worker, shall be guilty of an offence against this Act.

Penalty: One hundred pounds.

(7.) For the purposes of this section—

- (a) a tributer who is employing mine workers shall be deemed to be the employer thereof; and
- (b) where a tributer is a mine worker he shall be deemed to receive periodical payments of wages at the same time as other mine workers employed in the mine for the purpose of ascertaining the amount of contribution payable by him, and such amount as and when so ascertained shall be paid by the tributer to the lessee or owner of the mine as his employer for payment by such employer to the Board unless such employer then has moneys belonging to the tributer out of which such contribution can be deducted by the employer as herein provided for

(8.) The Minister or other officer paying salary or wages to a district inspector or workmen's inspector appointed under the Mines Regulation Act, 1906, shall cause to be deducted out of every periodical payment of such salary or wages and paid to the Board the amount of the contribution for which such district inspector or workmen's inspector is liable, together with a list showing the names of the inspectors and the amounts of the contributions respectively.

(9.) Where any person is employed as a mine worker under and subject to a special certificate granted to him under the regulations made under the Mines Regulation Act, 1906, and the employment of such person must be determined upon the cancellation of such special certificate by the Minister, then, notwithstanding anything to the contrary contained in this section, such person shall not be liable to contribute or be capable of contributing to the fund as a mine worker.

Court may order payment of contributions in addition to penalty.

20. Upon the conviction of an employer of any offence under sections eighteen or nineteen of this Act, the court hearing the complaint may, in addition to imposing any penalty, order the defendant to pay the amount of any contribution to the fund to which the complaint relates; and the amount so ordered to be paid shall be recoverable in the same way as the penalty is recoverable.

Register to be kept of employers and mine workers.

21. For the purposes of this Act the Board shall keep—

- (a) a register in the prescribed form, and enter therein the names of all employers liable or deemed liable to contribute to the fund;
- (b) a register in the prescribed form, and enter therein the names of all mine workers for the time being contributing to the fund in accordance with this Act.

Employers to furnish names of mine workers.

22. (1.) Every employer shall, if required so to do by the Board, furnish to the Board the names and addresses of, and such other particulars as may be prescribed relating to, mine workers employed by him.

(2.) Any employer who refuses, fails or neglects to comply with this section shall be guilty of an offence against this Act.

Penalty: Fifty pounds.

23. The Treasurer of the State, on behalf of the Minister, shall pay into the fund on the last days of September, December, March and June in each and every year or as soon as possible after each such day, an amount equal to the total sum of the contributions of employers under section eighteen received into the fund during the three months next preceding the last days of the said months respectively; and so much of the Consolidated Revenue as may be necessary is hereby permanently appropriated for such purpose.

Contributions by the Treasurer.

24. (1.) If at any time the moneys in the fund are, in the opinion of the Board, more than sufficient to meet the immediate requirements for which the fund is established, the Governor may by notice in the *Government Gazette* exempt employers and mine workers from liability to contribute to the fund for such time as may be specified in the notice.

Contributions to the fund may be suspended.

(2.) Any such exemption shall not affect or prejudice the right of any mine worker to any benefit under this Act, if at the date of such exemption such mine worker has been contributing to the fund.

25. Any money in the fund not immediately required for the purposes of this Act may be invested by the Board in any investments authorised by the Trustees Act, 1900, for the investment of trust funds.

Moneys in the fund may be invested.

26. (1.) After the commencement of this Act it shall be lawful for the Trustees of the Mine Workers' Relief Fund Incorporated, an Association incorporated under the Associations Incorporation Act, 1895, and established at Kalgoorlie, with the approval of the board of control of the said Association, to transfer assign and deliver all moneys and other property of the Association to the Board, and for the Board to receive such moneys and other property and place the same to the credit of the fund; but in such case the following conditions shall apply:—

Authority to Trustees of Mine Workers' Relief Fund Incorporated, of Kalgoorlie, to hand over moneys to the Board.

(a) The Board may realise and convert into money any of the said property in such manner and at such times as it may think fit.

(b) A separate record of the receipt and expenditure of moneys received and obtained from the sale of other property shall be kept by the Board.

- (c) The Board shall take over and assume all debts and liabilities and all contractual and other obligations of the said Association as at the date when the moneys and other property is received by the Board, and shall indemnify the said Association in respect thereof, and shall use and apply the said moneys and other property received for the satisfaction and discharge of such debts and liabilities and such contractual and other obligations in the same manner and for the same purposes as the Association itself could have used and applied the same if they had not been handed over to the Board as aforesaid.
- (d) The employee members of the said Association at the date when the said moneys and other property is received by the Board who are entitled to or eligible for any benefits as such members provided for under the constitution rules and regulations of the said Association, shall be entitled to receive such benefits from the Board whilst they continue to be so entitled or eligible as aforesaid.

Provided that a person who is a mine worker within the meaning of this Act entitled to a benefit under this Act, and is also an employee member of the Association entitled or eligible for benefit as such member as aforesaid by reason of the same circumstances, shall be entitled only to the last mentioned benefit until the same is exhausted, unless the value of such benefit is less than the value of the similar benefit under this Act, in which case, subject to this Act, such person shall be entitled to receive from the Board the difference between the value of the two benefits as the benefit to which he is entitled under this Act as a mine worker.

Division (2)—Constitution of Board.

Constitution of
Board.

27. (1.) For the purposes of this Act a Board is hereby constituted and shall be known as the Mine Workers' Relief Board.

(2.) The Board shall consist of five members. One member shall be appointed by the Governor and shall be chairman of the Board; two members shall be persons elected by the employers; and two members shall be persons elected by the mine workers.

(3.) The five persons who at the commencement of this Act are chairman and members respectively of the Mine Workers' Relief Fund, Incorporated, mentioned in section twenty-six of this Act shall be the first chairman and members respectively of the Board under this Act, but shall hold office only for the unexpired period for which they are holding office as aforesaid at the commencement of this Act, and shall be eligible for re-appointment or re-election as the case may be.

28. (1.) The Board shall be a body corporate with perpetual succession and a common seal.

Board shall be a body corporate.

(2.) The Board, in the corporate name of "The Mine Workers' Relief Board," may sue and be sued, and, for the purposes of and subject to this Act, may purchase, acquire, hold, grant, demise, sell, or otherwise dispose of real and personal property, and may do and suffer all other acts and things as bodies corporate may by law do and suffer.

(3.) The common seal of the Board shall be kept in the custody of the chairman or of such other member of the Board as the Board may determine, and shall not be affixed to any instrument or writing except in the presence of a quorum of the Board, and two members in whose presence the seal is affixed shall attest by their signatures the fact and date of the seal being affixed thereto.

(4.) No proceeding of the Board shall be invalid or illegal in consequence only of the fact that there was at the time a vacancy on the Board.

29. (1.) Subject to section twenty-seven of this Act, the chairman of the Board shall hold office during the pleasure of the Governor, and the elective members of the Board shall hold office for two years from the date of their election, and shall be eligible for re-election.

Tenure of office of members of the Board.

(2.) On a date to be fixed by the Minister prior to the expiration of the term of office of the first employer representative and the first employee representative on the Board due for retirement in accordance with the conditions under which they were elected as members of the board of control of the said Mine Workers' Relief Fund, Incorporated, an election shall be held to fill the vacancies on the Board created by their retirement, and the members then elected shall hold office for two years. Thereafter an election shall be held in each year for the election of one employer representative and one mine worker representative on the Board.

Elections.

30. (1.) The date of every election shall be fixed by the Minister, and the nomination of candidates shall be made and elections shall be held in the manner prescribed by regulations.

(2.) The Minister shall appoint a returning officer for the purposes of elections under this Act.

Electors.

31. (1.) Employer representatives on the Board shall be elected by employers, and mine worker representatives on the Board shall be elected by mine workers.

(2.) Only those employers and mine workers whose names appear in the register of employers and mine workers respectively kept by the Board as provided for in section twenty-one of this Act at the date fixed for an election shall be entitled to vote at such election.

Cost of elections.

32. The cost and expenses of conducting elections under this Act as certified in writing by the returning officer shall be paid by the Board out of the fund.

**Governor may
appoint in certain
cases.**

33. (1.) If at the time appointed for an election of a member of the Board there is no candidate or an insufficient number of candidates, the Governor may appoint any person to be a member for the employers or for the mine workers as the case may be, in order that the particular class of electors may be fully represented on the Board.

(2.) The person so appointed shall hold office for the term for which the member to be elected would have held office, and for the purposes of this Act shall be deemed to be an elected member.

**Vacancies, how
caused.**

34. A member of the Board may resign his office by writing under his hand addressed to the Minister, and in that event, or in the event of the death of any member, or if any member without the permission of the Board fails to give attendance at three consecutive meetings of the Board, or becomes bankrupt, or is convicted of any crime or misdemeanour, or becomes an insane person within the meaning of the Lunacy Act, 1903-1930, his seat shall become vacant.

**Extraordinary
vacancy.**

35. (1.) An election to fill an extraordinary vacancy on the Board shall be held and conducted as prescribed by regulations.

(2.) A person elected to fill such vacancy shall hold office until the time when his predecessor's term of office would have expired, and no longer, but shall be eligible for re-election if otherwise qualified.

36. The chairman and members of the Board shall be paid such remuneration for their services, and shall receive such travelling expenses and other allowances as may from time to time be prescribed.

Remuneration of members.

37. (1.) The Governor may appoint any person, other than a person for the time being acting as an ordinary member of the Board, to be deputy chairman of the Board to act in the place of the chairman at any time during the absence or inability of the chairman to act.

Deputy-chairman.

(2.) The deputy chairman shall hold office during the pleasure of the Governor.

(3.) In the absence of, or during the inability of the chairman to act, the deputy chairman shall act in his stead, and whilst so acting shall have the same powers and duties as the chairman if present would have.

38. (1.) The chairman, or, in his absence or during his inability to act, the deputy chairman shall preside at all meetings of the Board, and shall have a deliberative vote only.

Meetings.

(2.) Any three members of the Board shall form a quorum.

(3.) All questions arising at any meeting shall be decided by the majority of the votes of the members present.

(4.) The Board shall keep full and accurate minutes of all its proceedings in such manner and form as may be prescribed.

39. (1.) No matter or thing done, and no contract entered into by the Board, and no matter or thing done by any member or servant of the Board or by any other person acting under the direction of the Board shall, if the matter or thing was done or the contract was entered into *bona fide* for the purposes of this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

Members acting *bona fide* not personally liable.

(2.) Nothing in this section shall exempt any member from liability to be surcharged with the amount of any payment which is properly disallowed by the Auditor General in the accounts of the Board, and which such member authorised or joined in authorising.

Officers of the Board.

40. (1.) The Board may, with the approval of the Minister, appoint and pay out of the fund a secretary and such other servants or officers as may be necessary for the carrying out of its duties by the Board.

(2.) The Minister may, with the approval of the Public Service Commissioner, assign any officer in the Department to perform any services for the Board, provided that the officer so assigned shall still be deemed to be an officer of the department, and the value of the services performed by such officer for the Board as fixed by the Minister shall be paid to the Minister out of the fund.

Division 3.—Administration of the Fund.

Fund to be administered by the Board.

41. Subject to the Minister, the Board is hereby charged with the administration of the fund.

Powers of Board.

42. In the administration of the fund the Board may do all or any of the following things:—

- (a) Receive and deal with all applications by mine workers and other persons claiming benefits under this Act.
- (b) Subject to this Act and the regulations thereunder, grant and pay benefits under this Act to mine workers and other persons entitled thereto.
- (c) Provide, endow, furnish and fit out with all necessary furniture, instruments, and other equipment and maintain and manage hospitals, sanatoria and convalescent homes, and other places for the treatment, care, or comfort of mine workers.
- (d) Employ or pay medical, surgical, and pharmaceutical officers, nurses and attendants for the purposes aforesaid, and supply all such medical, surgical and pharmaceutical appliances and things and all such provisions and necessities as may be required for the purposes aforesaid or any of them.
- (e) Pay all expenses and charges which by this Act or the regulations are declared to be payable out of the fund; and
- (f) arrange and enter into and maintain and renew contracts of insurance or indemnity with any insurance company or person for the purpose of obtaining for the Board under such contracts a right of indemnity or reimbursement in respect of

the amounts of any benefits under this Act which the Board may be required to pay out of the fund to persons entitled to such benefits.

- (g) All such other things which in the opinion of the Board are incidental or conducive to the attainment of any of the objects of this Act and which are approved by the Governor, including the payment of allowances to persons acting as legal guardians of and maintaining infant dependants of a mine worker.

43. The fund in the hands of the Board shall be applied— Application of the fund.

- (a) to the payment of all expenses lawfully incurred by the Board or by this Act declared to be payable out of the fund;
- (b) to the payment of remuneration, travelling expenses, and other allowances of the members of the Board, and the salary or wages of all the servants of the Board;
- (c) to the payment or expenditure of moneys necessary for the exercise by the Board of any of its powers under this Act;
- (d) to the payment of benefits to mine workers and other persons entitled thereto under this Act;
- (e) to all other necessary and proper expenditure approved by the Governor.

44. Where the moneys for the time being in the fund are not sufficient to meet the obligations of the Board, the Treasurer may make advances to the Board out of moneys appropriated by Parliament for the purpose; and the moneys so advanced, together with interest thereon at a rate to be fixed by the Treasurer, shall be a debt due from the Board to the Treasurer, and until paid shall be a first charge against the fund. Advances by the Treasurer.

PART IV.—BENEFITS.

Division (1).—Prohibited and Notified Mine Workers.

45. The benefits to which mine workers shall be entitled under this Division of this Part of this Act shall be such as are from time to time prescribed by regulations under this Act. Benefits to be prescribed.

Board to keep register of prohibited mine workers.

46. (1.) Whenever a mine worker is prohibited from employment as a mine worker under section thirteen of this Act, and his name has been entered in the register of prohibited mine workers kept in the department in accordance with this Act, the department shall cause notice thereof in the prescribed form to be sent to the Board.

(2.) Upon receipt of such notice the Board shall cause the name of the mine worker mentioned in the notice to be entered in a register to be kept by the Board in the prescribed form.

Prohibition of mine worker shall in certain cases create a right to worker's compensation.

47. (1.) Whenever a mine worker is prohibited from employment as a mine worker under section thirteen of this Act on the ground that he is suffering from both tuberculosis and silicosis, or receives notice under section sixteen of this Act that he is suffering from silicosis in the advanced stage only, such mine worker shall be deemed as from the date of the prohibition or the notice, as the case may be, to have become totally and permanently incapacitated for work as the result of personal injury by accident arising out of or in the course of the employment in which he was engaged at the date of the prohibition or notice if he was then employed as a mine worker or in which he was last employed as a mine worker within the meaning and for the purposes of the Workers' Compensation Act, 1912-1924, so as to entitle him to compensation from the employer by whom he was employed at the date of the prohibition or notice if he was then employed as a mine worker or by whom he was last employed as a mine worker under and in accordance with the said Act.

(2.) Provided that this section shall not operate to prevent a mine worker who has received notice under section sixteen as aforesaid from continuing to work as a mine worker, and, notwithstanding that such mine worker shall so continue to work after he has received notice as aforesaid, he shall still be entitled to the benefit of this section if he ceases to work as a mine worker within twelve months after the service upon him of the said notice, save and except that in such case he shall be entitled to such benefit only as from the date when he ceased to work as aforesaid.

(3.) A certificate of such prohibition or notice in the prescribed form under the hand of the Minister shall be judicially noticed.

48. (1.) A mine worker prohibited or notified as aforesaid and entitled to compensation under the Workers' Compensation Act, 1912-1924, by virtue of section forty-seven of this Act, and the dependants of such mine worker, shall not be entitled to any benefit under this Act as a prohibited or notified mine worker or as the dependant of a prohibited or notified mine worker until after he has received in full all the compensation to which he is entitled under the Workers' Compensation Act, 1912-1924:

Benefit in respect of a mine worker prohibited as suffering from tuberculosis and silicosis.

Provided that this subsection shall not apply when the mine worker or dependant concerned proves to the satisfaction of the Board that as the result of the bankruptcy or want of means or disappearance of the employer, or for any other sufficient reason, he is unable to recover such compensation or any balance of such compensation from his employer:

Provided also that a mine worker shall be deemed to have received such compensation in full when he receives payment of a lump sum in redemption of weekly payments as ordered by the local court otherwise than with the consent of the mine worker.

Provided further, that where a mine worker referred to in subsection (1.) of this section is receiving his worker's compensation by weekly payments in accordance with the said Act, and, if working as a mine worker would be entitled in accordance with the ruling basic wage to receive wages weekly in excess of the amount of weekly compensation which he is receiving, then, notwithstanding anything to the contrary contained in this section or in any other section of this Act, such mine worker, whilst he continues to receive weekly payments of worker's compensation, shall be entitled to receive from the Board out of the fund weekly the amount of the difference between the amount of the weekly payment of worker's compensation and the amount of weekly wages aforesaid.

(2.) When a mine worker or the dependant of a mine worker to whom subsection one hereof relates proves to the satisfaction of the Board that he has received in full all the worker's compensation to which he is entitled under the Workers' Compensation Act, 1912-1924, or that he comes within the first proviso to the said subsection, and, where he has received a lump sum in redemption of weekly payments as mentioned in the second proviso to the said subsection such sum has been expended by him for maintenance of himself and his dependants at a rate not exceeding three pounds ten shillings a week, then, provided the mine worker shall have continued to contribute regularly to the fund as if he were

still a mine worker, notwithstanding that he had been prohibited from employment or notified as aforesaid, an amount fixed by the Board not exceeding the rate of contribution prescribed for mine workers in respect of each weekly amount of worker's compensation received by him until the total amount of such compensation has been paid or until his death, whichever shall sooner happen, such mine worker or his dependants as the case may be shall thereafter be entitled to receive from the Board out of the fund the benefit prescribed by regulations under this Act for prohibited and notified mine workers or for their dependants, as the case may be.

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

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 who proves to the satisfaction of the Minister that prior to such prohibition he had worked underground as a mine worker in a mine in Western Australia to which this Act applies and was found to be suffering from tuberculosis without silicosis while at work underground or within a year after he ceased underground work, or that prior to such prohibition and to the medical examination next preceding such prohibition he had been examined by the laboratory, and then found not to be suffering from tuberculosis, shall be entitled to receive from the Board out of the fund as from the date of the prohibition the following benefits:—

(a) A weekly sum to be fixed by the Board not exceeding one-half of the weekly rate of pay for the class of work in which he was employed at the date of the prohibition ruling at such date in the district in which he was employed when prohibited as aforesaid, together with seven shillings and sixpence per week in respect of each child, but not exceeding in the aggregate the basic wage from time to time ruling in the district in which the mine worker was employed when prohibited, and which would be applicable to him if he had continued to be so employed, until he shall have received by means of such weekly payments a total sum of seven hundred and fifty pounds; and

(b) after he has received the sum of seven hundred and fifty pounds as aforesaid, and provided he shall have continued to contribute regularly to the fund as if he were a mine worker, notwithstanding that he had been prohibited from employment, an amount fixed by the Board not exceeding the rate

of contribution prescribed for mine workers in respect of each weekly payment received by him under paragraph (a) hereof, the benefit prescribed by regulations under this Act for prohibited and notified mine workers:

Provided that if a mine worker shall die before he has received seven hundred and fifty pounds under paragraph (a) hereof, then, provided he had regularly contributed to the fund until his death in the manner mentioned in paragraph (b) hereof, the dependants of such mine worker shall as from his death be entitled to the benefit expressly prescribed by regulations under this Act for such dependants until the amount of such benefit, together with the amount already received by the mine worker under paragraph (a) hereof, amounts to seven hundred and fifty pounds, and thereafter such dependants shall be entitled to the benefit prescribed by regulations under this Act for the dependants of a prohibited and notified mine worker.

(2.) 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 who is unable to prove to the satisfaction of the Minister all the circumstances necessary to entitle him to the benefit provided for in subsection one hereof, shall not be entitled to such benefit, but such mine worker and his dependants shall be entitled to the benefit expressly prescribed by regulations under this Act for such class of mine workers and their dependants.

50. (1.) A mine worker who has received notice under section sixteen of this Act when he is working underground that he is suffering from silicosis in the early stage without tuberculosis, and thereafter ceases to work underground within two years from receiving such notice may, within three months after the date when he ceases to work as aforesaid or such further time as the Minister may allow, give notice in the prescribed form to the Department stating the name of the employer by whom he was last employed as a mine worker underground, the class of work in which he was so employed, the date when he so ceased to work, and the rate of pay which he was then receiving.

Mine workers notified that they are suffering from silicosis may register their names in the department.

(2.) Upon receipt of such notice the Department shall cause the name of the mine worker and the particulars contained in the notice to be entered in a register to be kept by the Department in the prescribed form.

(3.) The Department shall cause a certificate of such registration in the prescribed form to be issued to such mine worker, and at least once a year thereafter the mine worker shall apply to the Minister in the prescribed form for a renewal of such registration.

Mine workers registered under s. 50 may apply for further examination.

51. (1.) Any person whose name is registered in the Department under section fifty of this Act may, whilst such registration continues, at any time submit himself for further examination at the laboratory.

(2.) If upon such further examination he is then found to be suffering from tuberculosis and silicosis, or from silicosis in the advanced stage only, and the Minister is so informed, the Minister shall give notice thereof in the prescribed form to such person and also to the Board, which shall thereupon enter the name in a register to be kept by the Board in the prescribed form.

Notice to mine worker under s. 51 may create right to worker's compensation in certain cases

52. (1.) Whenever a person has received notice under section fifty-one of this Act that he is suffering from tuberculosis and silicosis, or from silicosis in the advanced stage, and has received such notice within one year after the date when he ceased to work as a mine worker underground, then as on the date of such notice he shall be deemed to have become totally and permanently incapacitated for work as the result of personal injury by accident arising out of or in the course of the employment in which he was engaged on the date of the notice, if he was then employed as a mine worker, or in which he was last employed as a mine worker, within the meaning and for the purposes of the Workers' Compensation Act, 1912-1924, so as to entitle him to compensation from the employer by whom he was employed at the date of the notice, if he was then employed as a mine worker, or by whom he was last employed as a mine worker under and in accordance with the said Act.

(2.) Provided that this section shall not operate to prevent a person who has received notice as aforesaid that he is suffering from silicosis in the advanced stage when he is working as a mine worker, from continuing to work as a mine worker, and, notwithstanding that such person shall so continue to work after he has received notice as aforesaid, he shall still be entitled to the benefit of this section if he ceases to work as a mine worker within twelve months after service upon him of the said notice, save and except that in such case he shall be entitled to such benefit only as from the date when he ceased to work as aforesaid.

(3) A copy of such notice certified under the hand of the Minister shall be judicially noticed.

53. (1.) Whenever a person has received a notice under subsection two of section fifty-one of this Act that he is suffering from tuberculosis and silicosis or from silicosis in the advanced stage, and is entitled to compensation under the Workers' Compensation Act, 1912-1924, by virtue of section fifty-two of this Act, such person and his dependants shall not be entitled to any benefit under this Act as a mine worker or as the dependant of a mine worker until after he has received in full all the compensation to which he is entitled under the Workers' Compensation Act, 1912-1924, provided that this subsection shall not apply when the person or dependant concerned proves to the satisfaction of the Board that as the result of the bankruptcy or want of means or disappearance of the employer, or for any other sufficient reason, he is unable to recover such compensation or any balance of such compensation from the employer:

Benefit in respect of a mine worker referred to in ss. 50 and 52 of this Act.

Provided also, that a person shall be deemed to have received such compensation in full when he receives payment of a lump sum in redemption of weekly payments as ordered by the Local Court otherwise than with the consent of such person.

Provided further, that where a mine worker referred to in subsection (1) of this section is receiving his worker's compensation by weekly payments in accordance with the said Act, and, if working as a mine worker would be entitled in accordance with the ruling basic wage to receive wages weekly in excess of the amount of weekly compensation which he is receiving, then, notwithstanding anything to the contrary contained in this section or in any other section of this Act, such mine worker, whilst he continues to receive weekly payments of worker's compensation, shall be entitled to receive from the Board out of the fund weekly the amount of the difference between the amount of the weekly payment of worker's compensation and the amount of weekly wages aforesaid.

(2) When a person or the dependant of a person to whom subsection one hereof relates proves to the satisfaction of the Board that he has received in full all the worker's compensation to which he is entitled under the Workers' Compensation Act, 1912-1924, or that he comes within the first proviso to the said subsection, and where he has received a lump sum in redemption of weekly payments as mentioned in the second proviso to the said subsection such sum has been

expended by him for maintenance of himself and his dependants at a rate not exceeding three pounds ten shillings per week, then subsection two of section forty-eight of this Act shall apply *mutatis mutandis* to such person and his dependants who shall be entitled to the benefit conferred by such subsection on the terms and upon the conditions therein mentioned as if such person were a prohibited or notified mine worker as mentioned in the said section forty-eight.

Benefit in respect of a mine worker referred to in s. 51 of this Act as suffering from tuberculosis or silicosis after one year from ceasing work as a mine worker.

54. (1.) Whenever a person has received notice under section fifty-one of this Act that he is suffering from tuberculosis and silicosis or from silicosis in the advanced stage, and has received such notice more than one year after the date when he ceased to work as a mine worker underground, then as from the date of such notice the provisions of section forty-nine of this Act shall apply *mutatis mutandis* to such person and his dependants who shall be entitled to the benefits conferred by such section in the terms and upon the conditions thereof as if he were a mine worker as mentioned in the said section.

(2.) Provided that in the case of a person who has received notice under the said section fifty-one that he is suffering from silicosis in the advanced stage only when he is working as a mine worker, this section shall not operate to prevent him from continuing to work as a mine worker after he has received such notice; but during such time as he so continues to work such person and his dependants shall not be entitled to any benefit as conferred by this section.

Mine workers receiving worker's compensation or benefit under this Part of this Act prohibited from working as a mine worker.

55. Any person who is receiving worker's compensation by virtue of the provisions of this Division of this Part of this Act, or is receiving any benefit from the Board under this Division of this Part of this Act, shall cease to be entitled to such compensation or benefit, if and during such time as he is employed in any capacity on, in, or about a mine.

Division (2).—*Mine Workers Generally.*

Mine workers and dependants entitled to certain benefits during illness.

56. The Board may grant such benefits as may be prescribed by regulations under this Act to those persons who, whilst employed as mine workers to whom this Act applies or within two years after being so employed, are or become incapacitated or whose earning power may be materially prejudiced by any disease or malady which may be legitimately attributed to the nature of their employment as mine workers in the mining industry of Western Australia, and to the dependants of such persons:

Provided that—

- (i.) such disease or malady is not one which entitled the person to any benefit under Division (1) of this Part of this Act, or has not been contracted under circumstances which entitle the person suffering from the same to worker's compensation under the Workers' Compensation Act, 1912-1924; and
- (ii.) no person shall be entitled to receive benefit under this Division and also under Division (1) of this Part of this Act at the same time; and
- (iii.) no person shall be entitled to any benefit under this Division unless at the time when he claims such benefit he is regularly contributing as a mine worker to the fund in accordance with this Act or the regulations made thereunder.

57. (1.) Any person who proves to the satisfaction of the Board that he is personally engaged in prospecting as part of the operations of mining within the meaning of this Act, and that—

- (a) he is free from the diseases which would disqualify him from employment as a mine worker; or
- (b) he is suffering from silicosis in the early stage, but has for a period or periods amounting in the aggregate to five years been personally engaged in prospecting as aforesaid in Western Australia,

may apply in the prescribed manner to the Board for permission to contribute to the fund as a mine worker, and the Board may grant such permission; and thereafter such person may, subject to the regulations, contribute to the fund as if he were a mine worker.

(2.) The Board shall keep a register in the prescribed form and enter therein the names of all persons to whom permission to contribute to the fund is granted under this section.

(3.) The Board shall furnish to the Minister quarterly on the last days of September, December, March and June in each and every year, a statement of the total amount of contributions received from all the persons who have contributed to the fund under this section during the three months next preceding each quarterly day aforesaid, and the Treasurer on behalf of the Minister shall as soon as possible thereafter pay into the fund an amount equivalent to the total sum of such contributions as part of the contribution payable by the Treasurer under section twenty-three of this Act.

(4.) If any person, who has been permitted to contribute to the fund under this section shall subsequently be found on a medical examination by the Laboratory to be suffering from tuberculosis, or from tuberculosis with silicosis, or from silicosis in the advanced stage, either whilst he continues to be engaged in prospecting or within twelve months after he ceases to be so engaged, and has in the meantime regularly contributed to the fund in accordance with the regulations, then on production of a certificate of his said condition from the Laboratory, such person and his dependants shall be entitled to receive out of the fund from the Board the benefit provided for prohibited mine workers and their dependants under section forty-nine of this Act as if he were a mine worker or the dependant of a mine worker entitled to such benefit under the said section.

(5.) Any person, who has been permitted to contribute to the fund under this section shall, whilst he continues to be engaged in prospecting and for a period of two years after he ceases to be so engaged, and provided that in the meantime he has regularly contributed to the fund in accordance with the regulations, be entitled to the benefit provided for under section fifty-six of the Act as if he were a mine worker entitled to such benefit under the said section.

PART V.—MISCELLANEOUS.

Accounts.

58. (1.) The Board shall cause books to be provided and kept and true and regular accounts of its transactions in relation to the fund to be entered therein.

(2.) The accounts of the Board shall be kept as prescribed by the regulations.

Annual statements.

59. (1.) The Board shall cause an annual report of its operations and statements of account as prescribed to be prepared and submitted to the Minister.

(2.) The report shall be laid before both Houses of Parliament.

Audit.

60. The statements of account so prepared shall at the cost of the Board be audited and reported upon by the Auditor General, who shall have in respect to the accounts of the Board all the powers conferred on the Auditor General relating to the audit of the public accounts.

61. Any person who—

Offences.

- (a) forges or alters any certificate or notice issued under this Act; or
- (b) obtains any certificate under this Act by fraud or by any wilful misstatement of fact; or
- (c) represents that any certificate or notice issued in respect of another person was issued in respect of himself; or
- (d) obtains or attempts to obtain any benefit under this Act by fraud or by any wilful misstatement of fact,

shall be guilty of an offence against this Act.

Penalty: Fifty pounds.

62. The Governor may make regulations prescribing all matters and things which are required to be prescribed, or which it may be necessary or convenient to prescribe, for carrying out and giving effect to this Act, and may impose a penalty not exceeding twenty pounds for the breach of any regulation.

Regulations.

THE SCHEDULE.

Ashburton Goldfield
 Broad Arrow Goldfield
 Coolgardie Goldfield
 Dundas Goldfield
 East Coolgardie Goldfield
 East Murchison Goldfield
 Kimberley Goldfield
 Mount Margaret Goldfield
 Murchison Goldfield
 Northampton Mineral Field
 North Coolgardie Goldfield
 North-East Coolgardie Goldfield
 Peak Hill Goldfield
 Pilbara Goldfield
 Phillips River Goldfield
 West Kimberley Goldfield
 Yalgoo Goldfield
 Yilgarn Goldfield.