

Western Australia

Mine Workers' Relief Act 1932

As at 10 Oct 2003

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Mine Workers' Relief Act 1932

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10 October 2003

Western Australia

Mine Workers' Relief Act 1932

An Act relating to the relief of mine workers.

1. Short title and commencement

This Act may be cited as the *Mine Workers' Relief Act 1932*, and shall come into operation on a day to be fixed by proclamation¹.

[2-4, Part I-Part V and Schedule 1. Repealed by Sch. 2 cl. 8.]

Schedule 2

[Section 62A]

Part I

Application and Interpretation

1. Application of Schedule 2

This Schedule has effect on the dissolution date and with effect from that date the remainder of this Act shall be amended by and construed subject to this Schedule.

2. Interpretation

In this Schedule, unless the contrary intention appears —

Appeal Board means the Mine Workers' Relief Act Appeal Board constituted by paragraph 13;

asbestosis means asbestosis of the lungs;

Board means the Mine Workers' Relief Board constituted under this Act;

commencement day means the day of the commencement of section 46 of the *State Government Insurance Commission Act 1986*^{1, 2};

Commission means the body continued as the Insurance Commission of Western Australia under the *Insurance Commission of Western Australia Act 1986*;

dependants includes spouse, de facto partner, surviving spouse, surviving de facto partner (until that spouse or partner subsequently marries or enters into a de facto relationship), parent, step-parent, grandparent; and also those persons being under the age of 16 years who bear to the mine worker the following relationships, namely, son (whether legitimate or illegitimate), daughter (whether legitimate or illegitimate), grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother or half-sister;

dissolution date means the date on which an order under section 62A declaring that the Board shall be dissolved comes into operation³;

Minister means the Minister for Mines⁴ or other responsible Minister of the Crown for the time being charged with the administration of this Act;

silicosis means silicosis of the lungs;

State Government Insurance Office means the body corporate established by that name by the *State Government Insurance Office Act 1938*⁵;

surviving spouse or surviving de facto partner, in relation to a person who has died, means —

- (a) the widow or widower of that person; or
- (b) a person who was, immediately before the death of the person, a de facto partner of that person;

tuberculosis means tuberculosis of the lungs or of any other respiratory organs and, in the case of a mine worker, includes tuberculosis of any other part of the body attributable to the nature of his employment.

Part II

Dissolution of Mine Workers' Relief Board

3. **Dissolution of Board**

Subject to this Schedule, the Mine Workers' Relief Board is dissolved.

4. **Final report by Board**

- (1) Notwithstanding paragraph 3, the Board, as constituted immediately before the dissolution date, shall, for the purpose of preparing and submitting to the Minister the report referred to in subparagraph (2), continue in existence until it has furnished that report.
- (2) The Board shall as soon as practicable after the dissolution date prepare and submit to the Minister a report of its operations and statements of account in respect of the period from the end of the immediately preceding financial year to the dissolution date.
- (3) The report shall be laid before both Houses of Parliament.

Schedule 2

5. Vesting of assets and liabilities of Board in S.G.I.O.

- (1) Upon the dissolution date —
- (a) all rights, property and assets including the Fund that, immediately before that date, were vested in the Board are, by force of this paragraph, vested in the State Government Insurance Office;
 - (b) the State Government Insurance Office becomes, by force of this paragraph, liable to discharge all the debts, liabilities and obligations of the Board that existed immediately before that date including the obligation to continue payment of weekly benefits to beneficiaries in receipt of such benefits immediately before that date; and
 - (c) the Board shall deliver to the State Government Insurance Office all registers, books, papers, documents, minutes, receipts and books of account relating to its operations.
- (2) Without limiting the generality of paragraph (a) of section 37(2) of the *Acts Amendment (ICWA) Act 1996* it is declared that that paragraph applies to —
- (a) funds, rights, property and other assets; and
 - (b) debts, liabilities and other obligations,
- that were vested in or imposed on the State Government Insurance Office under subparagraph (1) of this paragraph and were then vested in or imposed on the Commission under clause 9 of Schedule 4 to the *State Government Insurance Commission Act 1986*².
- (3) Where anything lawfully commenced by or under the authority of the Board has been lawfully carried on by or under the authority of the State Government Insurance Office before the commencement day¹ such thing may be carried on and completed by or under the authority of the Commission.

6. Insurance Commission to meet obligations

If the resources that have been vested in the Commission as referred to in paragraph 5(2) or received by the Commission under this Act are insufficient to meet the obligations referred to in paragraph 5(2) or imposed on the Commission under this Act, the Commission shall nevertheless meet all such obligations as they fall due and may adjust

premiums payable by employers of miners for industrial diseases insurance in order to recover any amounts so expended.

7. Construction of references to the Board or State Government Insurance Office

Subject to Part III of this Schedule and without limiting the generality of clause 12(1) of Schedule 4 to the *Insurance Commission of Western Australia Act 1986*⁶, any agreement, deed, instrument, application, notice, or other document subsisting for the purposes of this Act immediately before the commencement day shall have effect on and after that day as if any reference in the document to the Board or the State Government Insurance Office were (unless the context otherwise requires) a reference to the Commission.

Part III

Amendment of Act and Supplementary Provisions

8. Repeals

- (1) Sections 2, 3, and 4, Parts I, II, III, IV, V, and Schedule 1 are repealed.
- (2) The *Mine Workers' Relief Regulations* are repealed.

9. Duty of Commission

Subject to this Schedule the Commission shall —

- (a) receive contributions made under this Act;
- (b) receive and deal with applications by persons claiming benefits under this Act;
- (c) grant and pay benefits under this Act to persons entitled thereto;
- (d) pay all expenses and charges incurred in the administration of this Act;
- (e) maintain adequate records for the performance of its duties imposed under this Act and proper accounts of its receipts and payments under this Act; and
- (f) do all such things as are incidental or conducive to the attainment of the objects of this Act.

Schedule 2

10. Register of contributors

Notwithstanding the repeal of section 21 the Commission shall keep a register containing the names of all persons for the time being making contributions under this Act.

11. Savings regarding contingent beneficiaries

- (1) The objects of this paragraph are to ensure that the repeal of Part IV does not prejudice the interests of those persons who but for such repeal may on or after the dissolution date have been entitled to benefits under this Act and to provide that the respective rights and duties of those persons are in substance preserved on and after that date; and this paragraph together with the repealed provisions referred to in this paragraph shall be construed accordingly so as to give effect to those objects.
- (2) Subject to this Schedule, a person who prior to the dissolution date received a notice under section 13(1), or a notice under section 16(1) that he is suffering from silicosis, only, in the advanced stage, and the dependants of any such person, shall be entitled to benefits under this Act in the circumstances and subject to compliance with the conditions specified in subsections (1) and (2) of section 48 as if those subsections had not been repealed.
- (3) Subject to this Schedule, a person who prior to the dissolution date was notified under section 16 that he is suffering from silicosis in the early stage without tuberculosis and who prior to that date gave notice in accordance with section 50(1) and whose name was registered in accordance with subsection (2) of that section, and the dependants of any such person, shall, if upon further medical examination to the satisfaction of the State Government Insurance Office or the Commission he has been or is found to be suffering from tuberculosis and silicosis or silicosis in the advanced stage, be entitled to benefits under this Act in the circumstances described in section 53 and subject to compliance with section 50(5) as if those provisions had not been repealed.
- (4) Notwithstanding any provision to the contrary —
 - (a) the contributions payable in accordance with subparagraphs (2) and (3) shall be of an amount of \$8.40 per annum and shall be paid annually to the Commission;

- (b) the benefits payable under this Act shall be those provided for in this Schedule.
- (5) The provisions of this Schedule relating to silicosis, including silicosis in the early stage, silicosis in the advanced stage, and silicosis with or without tuberculosis, apply, with the necessary changes, in respect of asbestosis.

12. Benefits after dissolution date

- (1) The periodic benefits to which persons who become entitled to benefits under this Act on or after the dissolution date are entitled are such as are provided for in Schedule 3.
- (2) The Commission may make a written offer to a person who becomes entitled to benefits under this Act on or after the dissolution date (or a parent or guardian of a dependant who is under 16 years of age) to pay a lump sum in redemption of that person's entitlement to the weekly payments provided for in Schedule 3.
- (3) Subject to subparagraph (4), if a written offer made by the Commission under subparagraph (2) is accepted in writing within 3 months of receiving the offer, the Commission shall pay to the person entitled (or his parent or guardian in case of a dependant who is under 16 years of age) not later than 6 months after acceptance of the offer a lump sum equal to that which would have been paid by the Board under section 57A in like circumstances and such payment shall be in full satisfaction of the beneficiary's entitlement under this Act.
- (4) If an offer made by the Commission under subparagraph (2) to a person who is entitled to weekly payments under Schedule 3 in respect of a spouse, de facto partner or dependant under the age of 16 years of age is accepted, the lump sum payable under this paragraph in respect of that spouse, de facto partner or dependant shall be paid to the spouse, de facto partner or to the parent or guardian of the dependant on his behalf, as the case may be, and such payment shall be in full satisfaction of the beneficiary's entitlement in respect of that spouse, de facto partner or dependant under this Act.
- (4a) For the purposes of subparagraphs (3) and (4) an offer made by the State Government Insurance Office within 3 months before the

Schedule 2

commencement day and not accepted as at the commencement day shall be deemed to have been made by the Commission.

- (5) Where upon or after the dissolution date a person claims and is entitled to benefits under this Act and, after the commencement day, receives payment of a lump sum under this paragraph, the Commission, in addition to the benefit to which he is otherwise entitled under this paragraph, shall pay to him and to every entitled dependant by way of bonus a sum equal to that paid in like circumstances before the dissolution date under section 57E.

13. Establishment of Appeal Board

- (1) There is established a Mine Workers' Relief Act Appeal Board which shall consist of a chairman and 2 other members one of whom shall be a representative of employers of mine workers and one of whom shall be a representative of mine workers.
- (2) The members of the Appeal Board shall be appointed by the Governor.
- (3) A member shall be appointed for such period not exceeding 3 years as is specified in his instrument of appointment and is eligible for re-appointment.
- (4) A member may resign his office by writing under his hand delivered to the Minister.
- (5) The Governor may terminate the appointment of a member for misbehaviour or physical or mental incapacity.

14. Functions of Appeal Board

- (1) A person who is aggrieved by any act, decision or omission of the Commission in the exercise or purported exercise of powers, duties and obligations under this Act may appeal to the Appeal Board against that act, decision or omission in writing within 30 days of being notified of the act, decision or omission.
- (2) The Appeal Board shall make full inquiry into all matters complained of by an aggrieved person under subparagraph (1) and shall determine the appeal and may confirm, vary or set aside any decision or act of the Commission.

- (3) The decision of the Appeal Board shall be final and the Commission shall take such action as is necessary to give effect to the decision.

15. Remuneration of members

- (1) The chairman and the other members of the Appeal Board shall be paid such remuneration for their services and shall receive such travelling expenses and other allowances as may be prescribed.
- (2) Payments under this paragraph shall be charged by the Commission to the Insurance Commission General Fund established under section 16 of the *Insurance Commission of Western Australia Act 1986*.

[Schedule 2 inserted by No. 46 of 1980 s. 28; amended by No. 51 of 1986 s. 46; No. 45 of 1996 s. 38; No. 49 of 1996 s. 64; No. 28 of 2003 s. 140.]

Schedule 3

Schedule 3

(Paragraph 12 of Schedule 2)

1.

Persons entitled to benefits under the Act on and after the dissolution date are entitled to the following —

	Per week \$
(1) Basic payment for a mine worker	4
(2) Additional payment to a mine worker in respect of —	
(a) the spouse or de facto partner of the mine worker	4
(b) each child under 16 years of age, dependent on the mine worker	1
(3) Basic payment for surviving spouse or surviving de facto partner, of a mine worker	4
(4) Additional payment for surviving spouse, or surviving de facto partner, of a mine worker in respect of each child under 16 years of age who was dependent on the mine worker immediately before the worker's death	1
(5) Payment for a parent of a mine worker who was dependent on the mine worker immediately before the worker's death	2
(6) Payment for guardian of each child under 16 years of age who was dependent on a mine worker immediately before the worker's death	2

2.

Notwithstanding the above provisions —

- (a) the maximum weekly payment shall not exceed \$9;
- (b) in the case of a mine worker who is a surviving spouse or surviving de facto partner, the additional payment under clause 1(2)(b) may be paid to any other person or institution direct, as the Insurance Commission of Western Australia may think fit;

- (c) a mine worker is not entitled to any payment under clause 1(2) unless the person the payment is made in respect of is being supported by the mine worker;
- (d) the additional payment under clause 1(2)(a) may be paid to the spouse or de facto partner of the mine worker or such other person or institution direct, as the Insurance Commission of Western Australia may think fit;
- (e) in the case of a surviving spouse or surviving de facto partner, the payments under clause 1(4) in respect of a child under 16 years of age shall cease on the subsequent marriage of the spouse or de facto partner, or on the spouse or de facto partner entering into a de facto relationship;
- (f) when in the opinion of the Insurance Commission of Western Australia a surviving spouse or surviving de facto partner under 60 years of age is eligible to apply for a Commonwealth invalid pension then that surviving spouse or surviving de facto partner shall not be entitled to receive and payment under this Act until such an application has been made and dealt with.

3.

In this Schedule —

dependants has the same meaning as it has in Schedule 2;

surviving spouse or surviving de facto partner has the same meaning as it has in Schedule 2.

[Schedule 3 inserted by No. 46 of 1980 s. 29; amended by No. 51 of 1986 s. 46; No. 45 of 1996 s. 38; No. 28 of 2003 s. 141.]

Notes

- ¹ This reprint is a compilation as at 10 October 2003 of the *Mine Workers' Relief Act 1932* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Mine Workers' Relief Act 1932</i>	37 of 1932	30 Dec 1932	1 Feb 1933 (see s. 1 and <i>Gazette</i> 27 Jan 1933 p. 128)
Untitled order published in <i>Gazette</i>			27 Jan 1933
<i>Mine Workers' Relief Act Amendment Act 1933</i>	34 of 1933	27 Dec 1933	27 Dec 1933
Untitled order published in <i>Gazette</i>			16 Nov 1934
<i>Mine Workers' Relief Act Amendment Act 1934</i>	42 of 1934	4 Jan 1935	4 Jan 1935
Reprint of the <i>Mine Workers' Relief Act 1932</i> in Appendix to Session Vol. 1935 (includes amendments listed above)			
Untitled order published in <i>Gazette</i>			21 Apr 1939
<i>Mine Workers' Relief Act Amendment Act 1940</i>	22 of 1940	29 Nov 1940	29 Nov 1940
<i>Mine Workers' Relief Act Amendment Act 1943</i>	25 of 1943	25 Oct 1943	25 Oct 1943
Untitled order published in <i>Gazette</i>			17 Jan 1947
Untitled order published in <i>Gazette</i>			7 Mar 1947
<i>Mine Workers' Relief Act Amendment Act 1953</i>	7 of 1953	3 Nov 1953	3 Nov 1953
<i>Mine Workers' Relief Act Amendment Act 1958</i>	48 of 1958	23 Dec 1958	Act other than s. 3: 23 Dec 1958; s. 3: 27 Feb 1959 (see <i>Gazette</i> 27 Feb 1959 p. 479)
<i>Mine Workers' Relief Act Amendment Act 1961</i>	79 of 1961	4 Dec 1961	23 Mar 1962 (see s. 2 and <i>Gazette</i> 23 Mar 1962 p. 759)
Reprint of the <i>Mine Workers' Relief Act 1932</i> approved 19 Jun 1962 in Vol. 16 of Reprinted Acts (includes amendments listed above)			
<i>Mine Workers' Relief Act Amendment Act 1964</i>	96 of 1964	14 Dec 1964	14 Dec 1964

Short title	Number and year	Assent	Commencement
<i>Mine Workers' Relief Act Amendment Act 1973</i>	62 of 1973	19 Nov 1973	1 Feb 1974 (see s. 2 and <i>Gazette</i> 25 Jan 1974 p. 179)
<i>Mine Workers' Relief Act Amendment Act 1977</i>	29 of 1977	3 Nov 1977	12 Apr 1979 (see s. 2 and <i>Gazette</i> 12 Apr 1979 p. 968)
<i>Mine Workers' Relief Amendment Act 1980</i>	46 of 1980	12 Nov 1980	1 Feb 1981 (see s. 2 and <i>Gazette</i> 30 Jan 1981 p. 442)
<i>Mine Workers' Relief Amendment Act 1982</i>	67 of 1982	6 Oct 1982	6 Oct 1982
<i>State Government Insurance Commission Act 1986 s. 46(2)</i>	51 of 1986	5 Aug 1986	1 Jan 1987 (see s. 2 and <i>Gazette</i> 19 Dec 1986 p. 4859)
Reprint of the <i>Mine Workers' Relief Act 1932</i> as at 29 Sep 1987 (includes amendments listed above)			
<i>Acts Amendment (ICWA) Act 1996 s. 38 (Sch. 1 it. 8 except amendments to Sch. 2 para. 7)</i>	45 of 1996	25 Oct 1996	1 Oct 1997 (see s. 2 and <i>Gazette</i> 23 Sep 1997 p. 5357)
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Acts Amendment (Equality of Status) Act 2003 Pt. 43</i>	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
Reprint 4: The <i>Mine Workers' Relief Act 1932</i> as at 10 Oct 2003 (includes amendments listed above)			

^{1a} On the date as at which this reprint was prepared, provisions referred to in the following table had not come into operation and are therefore not included in compiling the reprint. For the text of the provisions see the endnote referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Acts Amendment (ICWA) Act 1996 Sch. 1 it. 8, amendments to Sch. 2 para. 7⁷</i>	45 of 1996	25 Oct 1996	To be proclaimed (see s. 2)

² Now known as the *Insurance Commission of Western Australia Act 1986*.

³ Dissolution date 14 September 1984; see *Gazette* 14 September 1984 p. 2941.

⁴ At the date this reprint was prepared, the Minister charged with the administration of the Act is the Minister for Government Enterprises.

⁵ Repealed by the *State Government Insurance Commission Act 1986*, the short title of which was changed to the *Insurance Commission of Western Australia Act 1986*.

⁶ Formerly referred to the *State Government Insurance Commission Act 1986* the short title of which was changed to the *Insurance Commission of Western Australia Act 1986* by the *Acts Amendment (ICWA) Act 1996* s. 5. Reference changed under the *Reprints Act 1984* s. 7(3)(gb).

⁷ On the date as at which this reprint was prepared, the *Acts Amendment (ICWA) Act 1996* s. 38, which gives effect to Sch. 1, had not come into operation. It reads as follows:

“

38. Consequential amendments

The Acts referred to in the Schedule are amended as set out in Schedule 1.

”.

Sch. 1 it. 8 para 7 reads as follows:

“

Schedule 1 — Consequential amendments to other Acts

8. *Mine Workers' Relief Act 1932*

Paragraph 7

Delete “without limiting the generality of clause 12(1) of Schedule 4 to the *State Government Insurance Commission Act 1986*”, substitute “Part 3 of the *Acts Amendment (ICWA) Act 1996*”.

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