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# MINE WORKERS' RELIEF.

23<sup>d</sup> Geo. V., No. XXXVII.

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No. 37 of 1932.<sup>1</sup>

[As amended by Acts:

No. 34 of 1933, assented to 27th December, 1933;

No. 42 of 1934, assented to 4th January, 1935;

No. 22 of 1940, assented to 29th November, 1940;

No. 25 of 1943, assented to 25th October, 1943;

No. 7 of 1953, assented to 3rd November, 1953;

No. 48 of 1958,<sup>2</sup> assented to 23rd December, 1958;

No. 79 of 1961,<sup>3</sup> assented to 4th December, 1961;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

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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, 1932-1961*, and shall come into operation on a day to be fixed by proclamation.<sup>1</sup>

Short title and commencement.  
Amended by No. 79 of 1961, s. 1.

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 operation.

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<sup>1</sup> Proclaimed to come into operation 1st February, 1933. See *Gazette* 27/1/33, p. 128.

<sup>2</sup> Section 7A proclaimed to come into operation 27th February, 1959. See *Gazette* 27/2/59, p. 479.

<sup>3</sup> Proclaimed to come into operation 23rd March, 1962. See *Gazette* 23/3/62, p. 759.

Application  
of Miner's  
Phthisis Act,  
1922, and  
this Act.  
Amended by  
No. 34 of 1933,  
s. 2.

3. (1) After the commencement of this Act, the Miner's 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 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.

Provided that where, prior to the commencement of this Act, the Minister administering the Miner's Phthisis Act, 1922,<sup>1</sup> had arranged with any person, then found to be suffering with tuberculosis and liable to be prohibited under section eight of the said Act, to refrain from prohibiting such person under the said section whilst he continued to be employed on the surface of a mine on work which he was able to perform but to prohibit such person under the said section in the event of such person subsequently becoming incapacitated for work or ceasing work at a mine by reason of the tuberculosis from which he was previously found to be suffering as aforesaid or by reason of any other cause which the Minister deems sufficient, then such person shall be deemed to be a person, in relation to whom the question has arisen 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, under and within the meaning of subsection (1) of this section, and, notwithstanding anything to the contrary in such subsection or in this Act contained, such person may, at any time after the commencement of this Act, be prohibited

<sup>1</sup> Now Miner's Phthisis Act, 1922-1929.

from employment under section eight of the said Miner's Phthisis Act, 1922,<sup>1</sup> which shall continue to apply to such person.

(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 Miner's Phthisis Act, 1922,<sup>1</sup> 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.

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

PART I.—Ss. 5 to 7A—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.*

Act divided into Parts. Amended by No. 79 of 1961, s. 3.

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<sup>1</sup> Now Miner's Phthisis Act, 1922-1929.

## PART I.—PRELIMINARY.

Interpreta-  
tion.  
Amended by  
No. 7 of 1953,  
s. 2.  
No. 48 of 1958,  
s. 2.  
No. 79 of 1961,  
s. 4.

## 5. In this Act, subject to the context—

“Asbestosis” means asbestosis of the lungs.

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

“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 or the Crown in right of the State, 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 State X-ray Laboratory at Kalgoorlie in the State.

“Medical Board” means a Medical Board established under section fourteen of this Act.

“Mine” and “Mining” have the same meanings as in the Mining Act, 1904<sup>1</sup> and the term “mine” includes a crushing battery used in connection with mining.

“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, a person employed upon or about a crushing battery in its operations of crushing and breaking ore and other materials for the purpose of the extraction of gold or other minerals from the ore or materials and a person employed in the treatment of sands and residues on the crushing battery, and also a district inspector or workmen’s inspector appointed under the Mines Regulation Act, 1946.<sup>2</sup>

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.

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<sup>1</sup> Now Mining Act, 1904-1961.

<sup>2</sup> Now Mines Regulation Act, 1946-1961.

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“Tributer” and “Tribute agreement” have the same meanings as in the Mining Act, 1904.<sup>1</sup>

“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.

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, or by a Medical Board on appeal under section fourteen of this Act, 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

Persons suffering from silicosis or tuberculosis. Amended by No. 79 of 1961, s. 3.

- (b) in the advanced stage, when it is found by a medical officer or medical practitioner appointed under this Act, or by the Laboratory, or by a Medical Board on appeal under section fourteen of this Act, 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, or by a Medical Board on appeal under section fourteen of this Act 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.

7A. (1) The provisions of this section shall come into operation on a day to be fixed by proclamation.<sup>1</sup>

(2) On and after the day of the coming into operation of this section the provisions of this Act and of the regulations relating to silicosis, including

Application to asbestosis of the provisions of this Act relating to silicosis. Added by No. 48 of 1958, s. 3.

<sup>1</sup> See footnote 2 page 1.

silicosis in the early stage, silicosis in the advanced stage, and silicosis with or without tuberculosis, apply *mutatis mutandis* in respect of asbestosis whether the onset of asbestosis in any particular case commenced before or after that day.

PART II.—PROHIBITION OF MINE WORKERS.

Medical  
examination.  
Amended by  
79 of 1961,  
s. 6.

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.

(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, 1946,<sup>1</sup> and the regulations thereunder, entitle such person either to continue working or to be employed as a mine worker.

Duty of  
employers.

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

- (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

<sup>1</sup> Now Mines Regulation Act, 1946-1961.



- (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.

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.

Powers and duties of inspectors and other 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 for obstruction of officers.

Penalty: Fifty pounds.

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

Reports. Amended by No. 79 of 1961, s. 7.

(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.  
Amended by  
No. 34 of 1933,  
s. 3.  
No. 42 of 1934,  
s. 2.  
No. 25 of 1943,  
s. 2.  
No. 79 of 1961,  
s. 8.

13. (1) Subject to subsection (4) of this section, if a medical officer or practitioner appointed under this Act or the Laboratory or a Medical Board after an appeal to it under section fourteen of this Act 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) A person shall be deemed to be a mine worker within the meaning and for the purposes of subsection (1) of this section,

- (a) if he was lawfully employed as a mine worker at any time within the period of twelve months next preceding the commencement of this Act, or on or at any time after the commencement of this Act, and also was so employed within the period of twelve months next preceding the date of a certificate that he is suffering from tuberculosis without silicosis given by a medical officer or a medical practitioner appointed under this Act or by the Laboratory or by a Medical Board after an appeal to it under section fourteen of this Act; or
- (b) if he was lawfully employed as a mine worker at any time within the period of twelve months next preceding the commencement of this Act, or on or at any time after the commencement of this Act, and also was so employed within the period of two years next preceding the date of a certificate, given during the latter year of that period of two years by a medical officer or a medical practitioner appointed under this Act, by the Laboratory, or by a Medical Board after an appeal to it under section fourteen of this Act, that he is suffering from tuberculosis without silicosis, and if the Medical Board finds that the tuberculosis from which he is so certified to be suffering resulted from his operations in

the mining industry, except that where the Minister is satisfied upon advice from the Laboratory that the tubercular condition of a person was a result of the person's operations in the mining industry that person shall be deemed to be a mine worker without such finding of the Medical Board; or

- (c) if he was lawfully employed as a mine worker at any time within the period of twelve months next preceding the commencement of this Act, or on or at any time after the commencement of this Act, and also was employed within the period of three years next preceding the date of a certificate, given by a medical officer, medical practitioner appointed under this Act, by the Laboratory or by a Medical Board on appeal to it under section fourteen of this Act, that he is suffering from silicosis with tuberculosis.

(2A) Subsection (1) of this section shall apply to any person who, whilst a mine worker within the meaning of the Act, is medically examined under the Act and found to be suffering from silicosis with tuberculosis or tuberculosis without silicosis, but who dies before notice of prohibition under subsection (1) of this section has been served upon him; and in such case such notice of prohibition may be issued by the Minister, notwithstanding that such mine worker shall have previously died, and when issued shall be published in the *Government Gazette*, and when so published shall be deemed to have been served both upon the deceased mine worker and his employer at the time of his medical examination aforesaid if the deceased person was then employed as a mine worker. Upon notice of prohibition being published as aforesaid, the dependants of the deceased mine worker shall be entitled to all the benefits under this Act and the Workers' Compensation Act, 1912,<sup>1</sup> to which they would have been entitled as such dependants if the deceased mine worker had not died until after notice of prohibition under subsection (1) of this section had been served upon him personally.

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<sup>1</sup> Now Workers' Compensation Act, 1912-1961.

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(3) (a) A mine worker who has been served with a notice under subsection (1) of this section shall neither work nor be employed as a mine worker unless and until—

- (i) the said notice has been set aside on appeal as hereinafter provided for; or
- (ii) he has submitted himself for medical examination to a medical officer or a medical practitioner appointed under this Act or to the Laboratory, and has then been found to be free from tuberculosis as defined in this Act and has received a certificate in the prescribed form to that effect.

(b) Any mine worker who works and any employer who employs 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.

(3a) Notwithstanding anything to the contrary contained elsewhere in this section or in this Act, any mine worker who has been served with a notice under subsection (1) of this section on the ground that he is suffering from tuberculosis, and who has subsequently—

- (i) submitted himself to and received the treatment provided for and prescribed in section forty-nine A of this Act; and
- (ii) thereafter has received the certificate provided for in subparagraph (ii) of paragraph (a) of subsection (3) of this section—

shall be supplied with a certificate in the prescribed form to that effect; and such certificate shall, notwithstanding any provision to the contrary contained in the Mines Regulation Act, 1946,<sup>1</sup> and the regulations thereunder, entitle such mine worker to work and to be employed as a mine worker on in or about a mine except underground:

<sup>1</sup> Now Mines Regulation Act, 1946-1961.

Provided that—

- (a) such mine worker shall during the currency of such certificate submit himself for medical examination in accordance with this Act at intervals not exceeding six months in duration; and
- (b) such certificate may be cancelled if the mine worker upon any such periodical medical examination is found again to be suffering from tuberculosis, or if the mine worker refuses or fails to submit himself for any periodical medical examination aforesaid.

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

Provided that where any person referred to in subsection (4) of this section is a person to whom subsection (1) of this section does not apply, then upon such person ceasing to work as a mine worker, or becoming prohibited from being further employed as a mine worker by reason of a notice issued and served by the Minister under and in accordance with

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<sup>1</sup> Now Mines Regulation Act, 1946-1961.

subregulation (3) of regulation two hundred and fifty-three of the regulations made under the Mines Regulation Act, 1946,<sup>1</sup> such person shall be entitled to receive from the Board, and the Board shall repay to him, the amount of all contributions then paid by such person to the Board as a mine worker under this Act.

Appeals to  
Medical  
Board.  
Repealed and  
re-enacted by  
No. 79 of 1961,  
s. 9.

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

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

- (a) one shall be the medical officer appointed under section seven of this Act, who has given the certificate showing a diagnosis against which an appeal to a Medical Board under this section has been made;
- (b) one shall be a qualified medical practitioner registered under the Medical Act, 1894,<sup>2</sup> nominated by the Commissioner of Public Health; and
- (c) one shall be a qualified medical practitioner registered under that Act, nominated by the appellant.

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

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

- (a) to hear and determine an appeal, by a person who has been examined under the provisions of this Act, against any diagnosis made by a medical officer or medical practitioner appointed under this Act or the Laboratory; and

<sup>1</sup> Now Mines Regulation Act, 1946-1961.

<sup>2</sup> Now Medical Act, 1894-1961.

- (b) to determine for the purposes of this Act whether tuberculosis found in a person at any time during the second year of his ceasing to carry on operations in a mining industry, resulted from his employment in that industry,

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

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

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

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

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

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

(10) Where a laboratory receives a copy of the certificate in accordance with subsection (8) of this section, it shall give effect to the decision of the

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Medical Board that is incorporated, as if the condition of the appellant as determined by that decision existed on the date of the diagnosis of the laboratory, that is the subject of appeal.

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

- (a) was a direct result of that person's employment in the mining industry, the person shall be deemed to be a mine worker within the meaning of section thirteen of this Act and the Minister shall notify the person in writing accordingly; or
- (b) was not the result of that person's employment in the mining industry, the person is not entitled to any benefits under this Act and the Minister shall notify that person in writing accordingly.

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

Register of prohibited mine workers. Amended by No. 79 of 1961, s. 10.

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 and by an accredited representative of any trade union or association of employees having members employed in the mining industry and contributing to the Fund at all reasonable times without payment.



16. (1) Subject to subsection (3) of this section, whenever a medical officer or medical practitioner appointed under this Act or the Laboratory or a Medical Board after an appeal to it under section fourteen of this Act 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.

Mine workers suffering from silicosis to be notified. Amended by No. 42 of 1934, s. 3. No. 79 of 1961, s. 11.

(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 three years 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

[Paragraph (b) repealed by No. 79 of 1961, s. 11.]

(2a) The provisions of subsection (2A) of section thirteen of this Act apply as if repeated in this subsection, but as if the reference in that subsection to silicosis with tuberculosis or tuberculosis without silicosis were a reference to silicosis in the advanced stage.

(3) Subsection (1) of this section does not apply to a person who, while employed as a mine worker under the authority of a provisional certificate issued to him under the provisions of subregulation (2) of regulation two hundred and fifty-three of the regulations made under the Mines Regulation Act, 1946,<sup>1</sup> is found upon examination by a medical officer or medical practitioner appointed under this Act or by the Laboratory to be suffering from silicosis,

<sup>1</sup> Now Mines Regulation Act, 1946-1961.

either in the early or advanced stage, unless within two years immediately preceding the date of the issue of the provisional certificate he had been medically examined by a medical officer or medical practitioner appointed under this Act or the Laboratory, and had worked on either an initial certificate under regulation two hundred and fifty-one of the regulations made under the Mines Regulation Act, 1946,<sup>1</sup> or a re-admission certificate under regulation two hundred and fifty-two of those regulations or a certificate under subsection (3) of section eight of this Act and prior to the date of issue of the provisional certificate had been lawfully employed by virtue of the initial certificate, the re-admission certificate or the certificate issued under that subsection.

Provided that where any person referred to in subsection (3) of this section is a person to whom subsection (1) of this section does not apply, then upon such person ceasing to work as a mine worker, or becoming prohibited from being further employed as a mine worker by reason of a notice issued and served by the Minister under and in accordance with subregulation (3) of regulation two hundred and fifty-three of the regulations made under the Mines Regulation Act, 1946,<sup>1</sup> such person shall be entitled to receive from the Board, and the Board shall repay to him the amount of all contributions then paid by such person to the Board as a mine worker under this Act.

### PART III.—MINE WORKERS' RELIEF FUND.

#### *Division (1).—Establishment of the Fund.*

Mine  
Workers'  
Relief 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.

(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.

<sup>1</sup> Now Mines Regulation Act, 1946-1961.

- (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.  
Amended by  
No. 22 of 1940,  
s. 2,  
No. 79 of 1961,  
s. 12.

Provided that, when such mine workers are paid their wages fortnightly and three fortnightly pay days occur in any one month, the employer shall not be liable to contribute to the fund under this section on the occasion of the third pay day in such month.

(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 contributions for which he is liable, or makes any false statement, or by any other means

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defrauds or attempts to defraud the Board of any contribution for which he is liable, shall be guilty of an offence against this Act, to which offence absence of criminal intention is no defence.

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, 1946,<sup>1</sup> 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.  
Amended by  
No. 22 of 1940,  
s. 3,  
No. 79 of 1961,  
s. 13.

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.

Provided that, when a mine worker is paid his wages fortnightly and three fortnightly pay days occur in any one month, such mine worker shall

<sup>1</sup> Now Mines Regulation Act, 1946-1961.

not be liable to contribute to the fund under this section on the occasion of the third pay day in such month.

(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 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, to which offence absence of criminal intention is no defence.

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, 1946,<sup>1</sup> 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, 1946,<sup>1</sup> and the employment of such person must be determined upon the

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<sup>1</sup> Now Mines Regulation Act, 1946-1961.

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.

20. Upon the conviction of an employer of any offence under sections eighteen or nineteen of this Act, the court hearing the complaint shall, 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.

Court may order payment of contributions in addition to penalty. Amended by No. 79 of 1961, s. 14.

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

Register to be kept of employers and mine workers.

- (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.

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

Power of Board to require from employer particulars relating to employees who are mine workers. See Act No. 36 of 1918, s. 31 as "to serve", "give" or "send" and s. 4 as to "writing".

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

Repealed and re-enacted by No. 79 of 1961, s. 15.

Penalty: Fifty pounds.

Contributions  
by the  
Treasurer.

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  
to the fund  
may be  
suspended.  
Amended by  
No. 79 of 1961,  
s. 16.

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 and other contributors from liability to contribute to the fund for such time as may be specified in the notice.

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

Moneys in  
the fund may  
be invested.

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,<sup>1</sup> for the investment of trust funds.

Authority to  
Trustees of  
Mine  
Workers'  
Relief Fund  
Incorporated,  
of Kalgoorlie,  
to hand over  
moneys to the  
Board.  
Amended by  
No. 42 of  
1934, s. 4.

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<sup>2</sup>, and established at Kalgoorlie, with the approval of the board of control of the said Association, to transfer assign and deliver all moneys and

<sup>1</sup> Now Trustees Act, 1900-1957.

<sup>2</sup> Now Associations Incorporation Act, 1895-1957.



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:—

- (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.

(2) Notwithstanding that the moneys and other property of the Mine Workers' Relief Fund Incorporated, which have been taken over by the Board, may have been totally expended in paying benefits in accordance with the rules of the said association to the employee members of such association, such employee members shall continue to be entitled to receive such benefits out of the fund established under this Act, and the Board shall continue to pay such employee members of the said association the said benefits which they were entitled to receive as such employee members out of the fund established under this Act.

*Division (2)—Constitution of Board.*

Constitution  
of Board.  
Amended by  
No. 34 of 1933,  
s. 4.  
No. 79 of 1961,  
s. 17.

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 employees referred to in paragraph (a) of section thirty-one of this Act to represent the employers; and two members shall be persons elected by persons referred to in paragraph (b) of that section to represent 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.

(4) Any person who is receiving any benefit under this Act shall be disqualified from becoming or continuing to be a member of the Board.

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.  
Repealed and  
re-enacted by  
No. 79 of 1961,  
s. 18.

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

(a) only those employers whose names appear at that date in the register kept pursuant to paragraph (a) of section twenty-one of this Act, are qualified and entitled to vote at the election of representatives of employers; and

(b) only those persons who at that date are contributing to the fund, whether as mine workers or otherwise, are qualified and entitled to vote at the election of representatives of mine workers.

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.

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,<sup>1</sup> or receives any benefit under this Act, his seat shall become vacant.

Vacancies,  
how caused.  
Amended by  
No. 34 of 1933,  
s. 5,  
No. 79 of 1961,  
s. 19.

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

Extraordinary  
vacancy.

(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.

Remunera-  
tion 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.

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<sup>1</sup> Now Lunacy Act, 1903-1954.

(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.

Meetings.

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.

(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.

Members acting *bona fide* not personally liable.

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.

(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.*

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

Fund to be administered by the Board.

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

Powers of Board. Amended by No. 25 of 1943, s. 3.

- (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 necessaries 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 Minister, including the payment of allowances to persons acting as legal guardians of and maintaining infant dependants of a mine worker.

Application  
of the fund.

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

- (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.

Advances by  
the Treasurer.

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.

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.

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.

Board to keep register of prohibited mine workers.

(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.

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 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,<sup>1</sup> so as to entitle him to compensation from the employer by whom he was

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

Amended by No. 34 of 1933, s. 6.

No. 79 of 1961, s. 20.

<sup>1</sup> Now Workers' Compensation Act, 1912-1961.

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.

(1a) Where a mine worker is entitled to workers' compensation under and by virtue of subsection (1) of this section, the commencing dates for the computation of the weekly payments of such workers' compensation shall, subject to subsection (2) of this section, be as follows:—

- (a) the day following the day upon which the mine worker ceases work, if he is employed as a mine worker at a mine on the date of the prohibition or the notice, as the case may be;
- (b) the day following the day upon which the mine worker ceases work, if he is employed as a mine worker at a mine after the date of his medical examination under this Act, which resulted in his being prohibited or notified as aforesaid, and is not so employed on the date of such prohibition or notice, as the case may be;
- (c) the day of his medical examination under this Act, which resulted in his being prohibited or notified as aforesaid, if the mine worker is not employed as a mine worker at a mine after the date of such examination and at the date of the said prohibition or notice, as the case may be.

(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 as from the date on which he ceases to work as a mine worker.

(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<sup>1</sup>, 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<sup>1</sup>:

Benefit in respect of a mine worker prohibited as suffering from tuberculosis and silicosis. Amended by No. 34 of 1933, s. 7. No. 42 of 1934, s. 5. No. 79 of 1961, s. 21.

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 under that Act on the application of the employer; and that where a mine worker receives a lump sum payment in redemption of weekly workers' compensation either by mutual agreement with the employer or as ordered under that Act on the application of the mine worker, the mine worker, notwithstanding that he has received such payment, shall not be deemed to have received such compensation in full until the expiration of the period which would have elapsed had he been receiving, by weekly payments, compensation under that Act of a total sum equal to the maximum liability under that Act of an employer in respect of weekly payments of compensation for incapacity for work.

(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 workers' compensation to which he is entitled under the Workers' Compensation Act, 1912<sup>1</sup>, or that he comes within the first

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<sup>1</sup> Now Workers' Compensation Act, 1912-1961.

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 the amount per week that would have been payable to him under that Act had he received compensation by weekly payments instead of by the lump sum in redemption of them, 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 workers' 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.  
Amended by No. 34 of 1933, s. 8.  
No. 42 of 1934, s. 6.  
No. 25 of 1943, s. 4.  
Repealed and re-enacted by No. 79 of 1961, s. 22.

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

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

- (a) the day following the day upon which the mine worker ceases work, if he is employed as a mine worker at a mine on the date of the prohibition;
- (b) the day following the day upon which the mine worker ceases work, if he is employed as a mine worker at a mine after the date of his medical examination under this Act,

that resulted in his being prohibited, as referred to in subsection (1) of this section, and is not so employed on the date of that prohibition; or

- (c) the day of his medical examination under this Act that resulted in his being so prohibited, if the mine worker is not employed as a mine worker at a mine after the date of that examination and on the date of such prohibition.

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

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

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

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

49A. (1) A mine worker who has been 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

Provision for curative treatment of prohibited mine workers.

Added by No. 25 of 1943, s. 5.

eligible for the benefits prescribed by section forty-nine of this Act, may be requested by the Minister after he receives the prescribed notice of prohibition to submit himself at such time and place as the Minister shall appoint, for the purpose of further medical examination and curative treatment; and such mine worker if he accedes to such request shall receive and continue to receive curative treatment until either he is supplied with the certificate provided for by subparagraph (ii) of paragraph (a) of subsection (3) of section thirteen of this Act, or is discharged by the Minister from such treatment.

(2) (a) Such expenses and charges as may be prescribed from time to time and are incidental to the medical examination or the curative treatment of a mine worker who submits to treatment and continues under the same until he is cured or is discharged therefrom by the Minister shall be paid by the Board out of the fund, and shall be additional to any benefits payable to and received by the mine worker under or by virtue of section forty-nine of this Act.

(b) Where a mine worker refuses or fails to continue under treatment to which he has submitted until he is cured or discharged therefrom by the Minister paragraph (a) of this subsection shall not apply and any expenses or charges already paid in relation to such treatment may be recoverable by the board from the mine worker as a debt.

(3) (a) If a mine worker to whom this section applies is supplied with the certificate provided for by subparagraph (ii) of paragraph (a) of subsection (3) of section thirteen of this Act and does not thereafter resume work as a mine worker on in or about a mine, he shall be entitled to further medical examinations on such occasions as are approved by the Minister.

(b) If, at any such examination, such mine worker is found to be suffering from tuberculosis without silicosis, he shall be entitled to further curative

treatment and to the benefits of the fund at the rate he would have received had he not been supplied with the certificate aforesaid.

(c) Such treatment shall include the right to the benefits of this subsection if and when any further certificates of the kind in this subsection hereinbefore mentioned are supplied to the mine worker.

50. (1) Subject, as in this section hereinafter provided, any mine worker notified in accordance with section sixteen of this Act that he is suffering from silicosis in the early stage without tuberculosis, may within three months after the date of receiving such notice, 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, 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. Amended by No. 34 of 1933, s. 9. No. 42 of 1934, s. 7. No. 22 of 1940, s. 4. No. 79 of 1981, s. 23.

(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:

Provided that a mine worker who is working as a mine worker when notified as aforesaid shall not be entitled to be registered under this section until he ceases to so work, and then shall only be entitled to be so registered, if he has ceased to so work within two years after the date of receiving the notice aforesaid and applies for such registration within three months or such further time as the Minister may allow after ceasing to so work.

(4) A mine worker whose name has been registered as provided for in subsection (2) of this section shall not be entitled thereafter to work underground as a mine worker, and at the same time to retain such registration or the renewal of such registration; and if any such mine worker resumes work underground for any period whatsoever after he shall have been registered as aforesaid, the registration shall forthwith become null and void, and shall be expunged from the register in which such registration appears:

Provided, that the Minister may, in exceptional circumstances, by a notice in writing under his hand exempt any mine worker whose name has been registered under subsection (2) of this section from the provisions of this subsection for such time as shall be specified in the notice.

(5) A mine worker whose name has been registered as provided for in subsection (2) of this section and who, through ceasing to work in on or about a mine has ceased to contribute to the Mine Workers' Relief Fund, shall contribute to the said fund as though he were still employed in the mining industry, as from the date of his registration as aforesaid as long as he remains so registered.

Provided that the Board shall not enforce any such contribution to the said fund during any period that the registered mine worker proves to the satisfaction of the Board that he is unable to pay his contribution by reason of—

- (a) unemployment; or
- (b) illness or accident in connection with which he is being attended by a qualified medical practitioner.

Mine workers registered under s. 50 may apply for further examination. Amended by No. 22 of 1940, s. 5.

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, and is satisfied by the production of a certificate issued by the Board that such person has paid his contributions to the Mine Workers' Relief Fund in accordance with the requirements of section fifty of this Act, the Minister shall give notice of the result of the said examination 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.

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 three years after the date when he ceased to work as a mine worker, then 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,<sup>1</sup> 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.

Notice to mine worker under s. 51 may create right to worker's compensation in certain cases.  
Amended by No. 34 of 1933, s. 10, No. 79 of 1961, s. 24.

(1a) Where a person is entitled to workers' compensation under and by virtue of subsection (1) of this section the commencing dates for the computation of the weekly payments of such workers' compensation shall, subject to subsection (2) of this section, be as follows:—

- (a) the day following the day upon which such person ceases work, if he is employed as a mine worker at a mine at the date of the said notice;

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<sup>1</sup> Now Workers' Compensation Act, 1912-1961.

- (b) the day following the day upon which such person ceases work, if he is employed as a mine worker at a mine after the date of his medical examination under this Act, which resulted in his being given notice as aforesaid, and is not so employed on the date of such notice;
- (c) the day of his medical examination under this Act, which resulted in his being given notice as aforesaid, if such person is not employed as a mine worker at a mine after the date of such examination and on the date of the said notice:

(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 as from the date when he ceases to work as a mine worker.

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

Benefit in respect of a mine worker referred to in ss. 50 and 52 of this Act.  
Amended by No. 34 of 1933, s. 11.  
No. 42 of 1934, s. 8.  
No. 79 of 1961, s. 25.

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,<sup>1</sup> 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,<sup>1</sup> 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

<sup>1</sup> Now Workers' Compensation Act, 1912-1961.

other sufficient reason, he is unable to recover such compensation or any balance of such compensation from the employer:

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 under that Act on the application of the employer; and that where a mine worker receives a lump sum payment in redemption of weekly workers' compensation, either by mutual agreement with his employer or as ordered under that Act on the application of the mine worker, the mine worker, notwithstanding that he has received such payment, shall not be deemed to have received such compensation in full until the expiration of the period which would have elapsed had he been receiving, by weekly payments, compensation under that Act of a total sum equal to the maximum liability under that Act of an employer in respect of weekly payments of compensation for incapacity for work.

(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,<sup>1</sup> 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 the amount per week that would have been payable to him under that Act had he received compensation by weekly payments instead of by the lump sum in redemption of them, then subsection (2) 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.

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<sup>1</sup> Now Workers' Compensation Act, 1912-1961.

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.  
Amended by No. 79 of 1961, s. 26.

54. 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 three years after the date when he ceased to work as a mine worker, 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.

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 workers' 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.  
Repealed and re-enacted by No. 22 of 1940, s. 6.  
Amended by No. 79 of 1961, s. 27.

56. (1) The Board may grant such benefits as may be prescribed by regulations under this Act to those persons who 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<sup>1</sup>; and

<sup>1</sup> Now Workers' Compensation Act, 1912-1961.

- (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; and
- (iv) no person who leaves Western Australia to reside elsewhere, or the dependants of such person, shall be entitled to any benefits under this Division unless, prior to his departure from Western Australia he produces a medical certificate from the laboratory or a medical officer or medical practitioner approved by the Board, that he is suffering from or has developed symptoms of any disease or malady which may be legitimately attributed to the nature of his employment as a mine worker in the mining industry of Western Australia, and also produces a certificate from a recognised medical authority or practitioner in the country or place of residence, that by reason of such disease or malady he has, since taking up his residence in such country or place, become incapacitated or that his earning power has been materially prejudiced.

(2) Any person who applies to the Board within three months of the date he ceased work as a mine worker in the mining industry of Western Australia, or such further time as the Board may allow, and proves to the satisfaction of the Board that he at any time contributed to the fund in accordance with the provisions of this Act, may be granted permission by the Board to contribute to the fund as though he were still employed as a mine worker in the said mining industry, and thereafter may be granted the benefits provided for in subsection (1) of this section, subject, however, to the conditions imposed in such subsection.

(3) A person shall be deemed to be contributing regularly as a mine worker to the fund within the meaning of paragraph (iii) of the proviso to subsection (1) of this section notwithstanding that he may temporarily for any period fail so to contribute if he proves to the satisfaction of the Board that his failure so to contribute is due to—

- (a) unemployment; or
- (b) illness or accident in connection with which he is being attended by a qualified medical practitioner.

Certain  
ex mine  
workers  
and ex  
prospectors  
entitled to  
benefits.  
Added by  
No. 79 of 1961,  
s. 29.

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

- (a) in receipt of an age pension under the Social Services Act 1947 of the Commonwealth as that Act is amended from time to time; or
- (b) in receipt of an invalid pension under that Act as so amended; or
- (c) had been certified by a medical officer appointed under this Act, upon his personal examination or upon receipt of such evidence as he considers sufficient that the person is unable to be gainfully employed through the silicosis in the early stages from which he is suffering and an incapacity due to a malady or disease in respect of which he is not entitled to compensation under the Workers' Compensation Act, 1912,<sup>1</sup>

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

<sup>1</sup> Now Workers' Compensation Act, 1912-1961.

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, or that he has been employed as a mine worker in this State, and has left or is about to leave such employment to engage in prospecting, and that—

Prospectors.  
Amended by  
No. 34 of 1933,  
s. 12.  
No. 42 of 1934,  
s. 9.  
No. 25 of 1943,  
s. 6.  
No. 79 of 1961,  
s. 28.

- (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, or employed as a mine worker, or has been part of the time employed as a mine worker and part of the time 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 contributions payable by the Treasurer under section twenty-three of this Act.

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

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

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

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

(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.

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. Accounts.

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

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. Annual statements.

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

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. Audit.

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.

**Regulations.**

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.

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**THE SCHEDULE.**

Amended by  
No. 79 of 1961,  
s. 30.

Ashburton Goldfield.  
Broad Arrow Goldfield.  
Coolgardie Goldfield.  
Dundas Goldfield.  
East Coolgardie Goldfield.  
East Murchison Goldfield.  
Gascoyne 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.  
South West Mining District (excluding land within  
the boundaries of the Collie Mineral Field).  
West Kimberley Goldfield.  
West Pilbara Mining District.  
Yalgoo Goldfield.  
Yilgarn Goldfield.