

Western Australia

## **Coal Miners' Welfare Act 1947**

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Western Australia

## **Coal Miners' Welfare Act 1947**

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## Coal Miners' Welfare Act 1947

**An Act to establish a fund to provide or assist in providing amenities for coal miners and to improve or assist in improving the welfare of coal miners; to constitute and incorporate a Board to administer the fund and to control any amenities provided and to declare the objects, functions and powers of such Board, and for other purposes incidental thereto.**

### **1. Short title and commencement**

(1) This Act may be cited as the *Coal Miners' Welfare Act 1947*, and shall come into operation on a date to fixed by proclamation<sup>1</sup>.

(2) This Act shall be read and construed with the *Mines Safety and Inspection Act 1994*.

*[Section 1 amended by No. 59 of 1998 s. 4.]*

*[2. Repealed by No. 76 of 1986 s. 4.]*

## **Part I — Preliminary**

### **3. Construction**

This Act shall be read and construed so as not to exceed the legislative powers of the State, to the intent that, where any enactment thereof would, but for the provisions of this section, have been construed as being in excess of those powers, it shall nevertheless be a valid enactment to the extent to which it is not in excess of those powers.

### **4. Interpretation**

In this Act, unless the context otherwise requires —

“**Board**” means The Coal Miners’ Welfare Board of Western Australia as constituted by this Act and includes where necessary the Chairman or a member of the Board;

“**Chairman**” means the chairman of the Board;

“**coal miner**” means any person employed in or about a coal mine;

“**Fund**” means The Coal Miners’ Welfare Fund as established by this Act.

*[Section 4 amended by No. 76 of 1986 s. 5.]*

### **5. Administration of this Act**

This Act shall be administered by the Minister and under the Minister, the Board is hereby authorised to carry out the provisions of this Act.

## **Part II — The Coal Miners' Welfare Fund**

### **6. Establishment of The Coal Miners' Welfare Fund by contributions by mine owners**

- (1) The owner of every coal mine shall in the months of January, April, July, and October in every year pay to a fund to be known as The Coal Miners' Welfare Fund a sum equivalent to the prescribed amount per tonne on the output of all coal produced from every mine of which he is the owner during the preceding 3 months respectively ending on the last day of the preceding month of December, March, June, or September, as the case may be, and the sums so payable in respect of any mine shall be recoverable as a debt due to the Board.
- (1a) The owner of every coal mine shall in the months of January and July in every year pay to the Fund a sum equivalent to 0.4101 cent per tonne on the output of all coal sold from every mine of which he or she is the owner during the preceding 6 months respectively ending on the last day of December or June, as the case may be, and the sums so payable in respect of any mine shall be recoverable as a debt due to the Board.
- (1b) The sums to be paid under subsections (1) and (1a) are to be credited to separate accounts forming part of the Fund.
- (2) The sums to be paid under subsections (1) and (1a) are in addition to any royalties that are to be paid under the *Mining Act 1978*.

*[Section 6 amended by No. 13 of 1957 s. 3; No. 113 of 1965 s. 8; No. 94 of 1972 s. 4; No. 76 of 1986 s. 6; No. 59 of 1998 s. 5.]*

### **7. Examination of books in respect of mines**

- (1) The Secretary of the Board or any person appointed in writing by the Board so to do shall have power to examine from time to time the books of any owner or manager of a coal mine for the

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exclusive purpose of ascertaining the amounts due or paid in respect of such mine to the Fund.

- (2) If on such examination it appears that any such owner or manager has not paid into the Fund any amount required under section 6 or has paid into the Fund only a part of such amount, such owner or manager shall be deemed guilty of an offence against this Act and shall be liable to pay in addition to the moneys which he should have but has not so paid, a penalty of one dollar in respect of each and every dollar or fraction of a dollar of such moneys and all penalties recovered under this section, less the expenses incidental to the recovery of the same, shall be paid into the Fund and form part thereof.
- (3) Every owner or manager of a coal mine who refuses, obstructs or prevents or causes the refusal, obstruction or prevention of the production of the books of the mine, and the free examination of such books for the purposes of this section shall be deemed guilty of an offence against this Act.

*[Section 7 amended by No. 113 of 1965 s. 8; No. 76 of 1986 s. 7.]*

## **Part III — The Coal Miners' Welfare Board of Western Australia**

### **8. Constitution of the Board**

- (1) For the purpose of carrying out the provisions of this Act, there shall be a board to be called The Coal Miners' Welfare Board of Western Australia constituted as hereinafter provided.
- (2) Such board shall be a body corporate with perpetual succession and a common seal and shall be capable in law of suing and being sued and of acquiring, purchasing, holding, exchanging, leasing, selling and disposing of real and personal property of every kind and description and of doing such other acts, matters and things within the provisions of this Act as other corporate bodies may lawfully do.
- (3) No member of the Board shall be personally liable for any act of the Board, but the Board alone shall be liable.

### **9. Membership of the Board**

- (1) The Board shall consist of 3 members appointed annually by the Governor.
- (2) Of the said 3 members —
  - (a) one shall be the President of the Combined Coal Mining Unions Committee and shall be Chairman of the Board;
  - (b) one shall be the President of the Coal Miners' Industrial Union of Workers of Western Australia, Collie.

*[Section 9 amended by No. 16 of 1961 s. 3.]*

### **10. Term of office of members of the Board**

Each member of the Board shall hold office until the appointment by the Governor of his successor and shall be eligible for re-appointment.

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**11.        Vacancies — how created**

A member of the Board shall vacate his seat as such member if he resigns by writing under his hand given to the Minister, or if he dies, or becomes an insane person, or if he fails to attend meetings of the Board for 3 consecutive months without leave of absence first being obtained from the Board.

**12.        Vacancies to be filled**

In case of a vacancy occurring in the office of a member of the Board, the Governor shall as soon as reasonably may be, appoint a person to fill such vacancy.

**13.        Remuneration of members**

- (1) The fees and expenses to be paid to and received by members of the Board for their services shall be such as may be prescribed from time to time.
- (2) Such fees and expenses shall be charged upon and payable out of the moneys from time to time being administered by the Board for the purposes of this Act.

**14.        Meetings of the Board**

- (1) The first meeting of the Board after the coming into operation of this Act shall be convened by the Chairman and thereafter meetings shall be held at the times and places determined by the Board:  
  
Provided that the Chairman or the 2 other members of the Board may, on reasonable notice to members of the Board, call a meeting at any time.
- (2) Subject to this Act, the business of the Board shall be conducted in such manner as the Board determines.

**15. Officers of the Board**

- (1) The Board may appoint a secretary to be the chief executive officer of the Board and such other officers and employees as it requires and as the Minister may approve to assist the Board in carrying out its duties and functions under this Act.
- (2) Persons appointed by the Board under subsection (1), or otherwise employed or engaged by the Board shall hold office or continue in employment during the pleasure of the Board and Part 3 of the *Public Sector Management Act 1994* shall not apply to those persons.
- (3) The salaries, wages and allowances of persons appointed, employed or engaged in pursuance of this section shall be as fixed by the Board with the approval of the Minister, and shall be charged upon and payable out of the moneys from time to time being administered by the Board for the purposes of this Act.
- (4) With the consent of the Minister administering any department of the Public Service of the State, the Board may, on any terms agreed between itself and the Minister, make use of the services of any person employed in that department.

*[Section 15 amended by No. 76 of 1986 s. 8; No. 32 of 1994 s. 3(2); No. 1 of 1995 s. 35.]*

## Part IV — Functions and powers of the Board

### 16. Functions of the Board

- (1) Subject to this Act and to any directions of the Minister, the Board is hereby charged with the administration and application of the Fund for such purposes connected with the provision of amenities for coal miners and the improvement of the physical, cultural and social well-being of coal miners, and the education, recreation and conditions of living of coal miners, as the Board may consider desirable.
- (1a) The Board may, with the prior approval of the Minister and upon such terms and conditions as the Minister approves, apply money standing to the credit of the Fund for or towards —
  - (a) the provision, in association with the body known as the Silver Chain Nursing Association (Incorporated), of a home for aged persons to be erected at Collie in the State; and
  - (b) the provision of such other amenities other than those to which subsection (1) refers, for persons including persons who are not coal miners, as the Board considers desirable.
- (2) The Minister may give to the Board directions of a general character with respect to the exercise and performance of its functions and the Board shall give effect to any such directions.
- (3) The Board is to consult with the owners of coal mines before applying money standing to the credit of the subsection (1a) account.
- (4) In this section —

**“subsection (1a) account”** means the separate account forming part of the Fund to which —

  - (a) moneys transferred under section 10(3) of the *Coal Mines Legislation Amendment and Revival Act 1998*; and
  - (b) sums paid under section 6(1a),

are to be credited.

*[Section 16 amended by No. 3 of 1968 s. 2; No. 59 of 1998 s. 6.]*

**17. Powers of the Board**

The Board may, for the purposes of carrying out the duties and functions imposed on it by this Act —

- (a) buy, or otherwise acquire, and hold any real or personal property of whatsoever kind or description;
- (b) sell, lease, exchange or otherwise dispose of any such property;
- (c) enter into any contract or agreement;
- (d) with the approval of the Minister, borrow money and mortgage or charge any of its property or the Fund as security for the repayment of any money borrowed and interest thereon;
- (e) construct, erect and maintain any premises, plant and equipment;
- (f) establish and maintain any scholarships or bursaries or make grants in aid of physical, technical, cultural or general education;
- (g) make grants to be expended in furtherance of any of the purposes of this Act to any local government, society, club, association or other body, whether incorporated or unincorporated;
- (h) do all other matters and things which it is required by this Act to do, or which in the opinion of the Board, are necessary or convenient to be done for giving effect to this Act.

*[Section 17 amended by No. 14 of 1996 s. 4.]*

**Part V — Accounts, audits, and reports**

**18. Application of *Financial Administration and Audit Act 1985***

The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Board and its operations.

*[Section 18 inserted by No. 98 of 1985 s. 3.]*

*[19-22. Repealed by No. 98 of 1985 s. 3.]*

**22A. Validation of certain payments from Fund**

Any payments made by the Board from the Fund before the coming into operation of the *Coal Miners' Welfare Act Amendment Act 1968*<sup>1</sup>, for or towards any purpose connected with the provision of amenities other than those to which section 16(1) refers, shall be deemed to have been lawfully made by the Board for the purposes of carrying out the duties and functions imposed on it by this Act.

*[Section 22A inserted by No. 3 of 1968 s. 3.]*

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## Part VI — Miscellaneous

### 23. Offences and general penalty

Any person who is guilty of an offence against this Act for which no specific penalty is herein provided, shall be liable to a penalty not exceeding \$100.

*[Section 23 amended by No. 113 of 1965 s. 8.]*

*[24. Repealed by No. 59 of 2004 s. 141.]*

### 25. How legal proceedings taken

- (1) Any proceedings, whether civil or penal, may be taken in the name of the Board by the secretary or any officer of the Board authorised in that behalf by the Board.
- (2) No proof shall be required of the appointment of the secretary or any officer of the Board, or of the authority of the secretary or officer to take civil or penal proceedings in the name of the Board, but the averment on the process that the secretary or officer aforesaid is so authorised shall be deemed to be conclusive proof of the fact.

*[26. Repealed by No. 35 of 1935 s. 48A(1)<sup>2</sup>.]*

### 27. Regulations

- (1) The Governor may make regulations under this Act prescribing all such matters as by this Act are required or permitted to be prescribed or as may be necessary or convenient to be prescribed for giving effect to or achieving the objects of this Act and facilitating the exercise of its powers and functions by the Board.
- (2) The power hereby given shall (without limiting its generality) be deemed to include power to make regulations —
  - (a) regulating the management and administration of funds and moneys administered by the Board;

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- (b) regulating and controlling the use of any amenities or any premises, plant or equipment provided or maintained by the Board;
  - (c) prescribing the conditions on which scholarships or bursaries may be granted by the Board, and the conditions under which grants may be made in aid of physical, technical, cultural or general education.
- (3) Any regulations made under this section may impose as a penalty for any breach of any regulation a fine not exceeding \$20.

*[Section 27 amended by No. 113 of 1965 s. 8.]*

## Notes

- <sup>1</sup> This is a compilation of the *Coal Miners' Welfare Act 1947* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any previous reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Coal Miners' Welfare Act 1947</i>	70 of 1947	10 Jan 1948	1 Mar 1948 (see s. 1(1) and <i>Gazette</i> 27 Feb 1948 p. 461)
<i>Limitation Act 1935</i> s. 48A	35 of 1935 (as amended by No. 73 of 1954 s. 5 <sup>2</sup> )	14 Jan 1955	1 Mar 1955 (see No. 73 of 1954 s. 2 and <i>Gazette</i> 18 Feb 1955 p. 343) <sup>2</sup>
<i>Coal Miners' Welfare Act Amendment Act 1957</i>	13 of 1957	30 Sep 1957	18 Oct 1957 (see s. 2 and <i>Gazette</i> 18 Oct 1957 p. 2918)
<i>Coal Miners' Welfare Act Amendment Act 1961</i>	16 of 1961	20 Oct 1961	23 Feb 1962 (see s. 2 and <i>Gazette</i> 23 Feb 1962 p. 514)
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	s. 4-9: 14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965
<i>Coal Miners' Welfare Act Amendment Act 1968</i>	3 of 1968	26 Sep 1968	26 Sep 1968
<b>Reprint of the <i>Coal Miners' Welfare Act 1947</i> approved 7 Apr 1971</b> (includes amendments listed above)			
<i>Metric Conversion Act 1972</i>	94 of 1972	4 Dec 1972	Relevant amendments (see First Sch. <sup>3</sup> ) took effect 1 Jan 1973 (see s. 4(2) and <i>Gazette</i> 29 Dec 1972 p. 4811)
<i>Acts Amendment (Financial Administration and Audit) Act 1985</i> s. 3	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Coal Miners' Welfare Amendment Act 1986</i>	76 of 1986	4 Dec 1986	16 Jan 1987 (see s. 2 and <i>Gazette</i> 16 Jan 1987 p. 82)
<i>Acts Amendment (Public Sector Management) Act 1994</i> s. 3(2)	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)

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Short title	Number and year	Assent	Commencement
<i>Industrial Legislation Amendment Act 1995</i> s. 35	1 of 1995	9 May 1995	1 Jan 1996 (see s. 2(2) and <i>Gazette</i> 24 Nov 1995 p. 5389)
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Coal Mines Legislation Amendment and Revival Act 1998 Pt. 2-3</i> <sup>4</sup>	59 of 1998	31 Dec 1998	31 Dec 1998 (see s. 2)
<b>Reprint of the <i>Coal Miners' Welfare Act 1947</i> as at 21 Dec 2001</b> (includes amendments listed above)			
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)

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<sup>2</sup> Section 48A of the *Limitation Act 1935* (No. 35 of 1935) was inserted by s. 5 of the *Limitation Act Amendment Act 1954* (No. 73 of 1954).  
Section 5 of the *Limitation Act Amendment Act 1954*, and consequently s. 48A of the *Limitation Act 1935*, commenced on 1 March 1955.

The *Limitation Act 1935* s. 48A(2) reads as follows:

“

- (2) The provisions of any Act which enact that in an action to which section forty-seven A of this Act applies,
- (a) the action is to be commenced within a particular time; or
  - (b) notice of action is to be given within a particular time or otherwise,
- are repealed.

”

<sup>3</sup> The Schedule to the *Metric Conversion Act 1972* was redesignated as the First Schedule by the *Metric Conversion Act Amendment Act 1973*.

<sup>4</sup> The *Coal Mines Legislation Amendment and Revival Act 1998* Pt. 3 reads as follows:

“

### Part 3 — Revival, validation and transitional provisions

#### 7. Interpretation

In this Part —

“**entitled relative**” means a person who, as a relative of a deceased employee of a coal mine, is entitled to a benefit under section 38(4) of the repealed Act as revived by section 8;

“**expiry day**” means the day on which an order under section 12 is published in the *Gazette*;

“**Fund**” has the same meaning as in the *Coal Miners' Welfare Act 1947*;

“**injured employee**” means a person who, as an employee of a coal mine who has suffered personal injury or contracted a disease, is entitled to payments under section 38(4) of the repealed Act as revived by section 8;

“**Relief Fund**” means the Coal Mines Accident Relief Fund referred to in section 38 of the repealed Act;

“**repealed Act**” means the *Coal Mines Regulation Act 1946* repealed by section 107 of the *Mines Safety and Inspection Act 1994* which came into operation on 9 December 1995;

“**repealed regulations**” means the *Coal Mines Regulations* repealed by regulation 17.2 of the *Mines Safety and Inspection Regulations 1995* published in the *Gazette* on 8 December 1995;

“**Trust**” means the Coal Mines Accident Relief Fund Trust referred to in section 38 of the repealed Act.

#### 8. Revival

- (1) Subject to subsection (2), the repealed Act other than sections 2, 3, 5A to 37, 39 to 63 and 65 to 69 —
  - (a) is hereby revived;
  - (b) is taken to have been in operation from 9 December 1995; and
  - (c) shall continue in operation until the expiry day.
- (2) Despite the revival of section 38 of the repealed Act, neither an owner nor an employee of a coal mine is required to contribute any moneys to the Relief Fund after the commencement of this Act.

- (3) The repealed regulations other than regulations 2 to 206 and 235 to 276 —
  - (a) are hereby revived;
  - (b) are taken to have been in operation from 9 December 1995; and
  - (c) shall continue in operation until the expiry day.

**9. Validation**

- (1) For the avoidance of doubt, anything done under —
  - (a) section 38 or 64 of the repealed Act; or
  - (b) regulations 207 to 234A of the repealed regulations,before the commencement of this Act is as valid and effective as it would have been if, at the time when it was done, the repealed Act or the repealed regulations, as the case requires, had not been repealed.
- (2) Without limiting the generality of subsection (1) —
  - (a) any moneys purported to have been payable to, contributed to and received into the Relief Fund under section 38(1) or (2) of the repealed Act before the commencement of this Act are taken to be, and to have always been, validly payable to, contributed to and received into the Relief Fund and to be recoverable accordingly;
  - (b) the appointment of a trustee of the Trust purported to have been made under section 38(4) of the repealed Act before the commencement of this Act is as valid and effective as it would have been if, at the time when it was done, the repealed Act had not been repealed; and
  - (c) the appointment of a member of the accident committee, the secretary of that committee and the secretary of the Trust purported to have been made under the repealed regulations before the commencement of this Act is as valid and effective as it would have been if, at the time when it was done, the repealed regulations had not been repealed.

**10. Application of Relief Fund moneys**

- (1) Moneys standing to the credit of the Relief Fund are to be applied by the Trust as the Trust thinks fit, and with the approval of the Minister —
  - (a) to the entitled relatives, by way of a lump sum payment in full satisfaction of their entitlement to payment under the repealed Act;
  - (b) in payment of expenses and costs incurred under the repealed Act; and

- (c) in payment of the costs of, and related to, the implementation of this Act.
- (2) The entitlement of an injured employee to payment from the Relief Fund ceases on the date the lump sum payments are made to entitled relatives under subsection (1)(a).
- (3) The balance of the moneys standing to the credit of the Relief Fund after the payments referred to in subsection (1) have been made is to be transferred to the separate account forming part of the Fund into which moneys that are payable under section 6(1a) of the *Coal Miners' Welfare Act 1947* as in force after the commencement of this Act are to be credited.

**11. Reporting**

- (1) The trust as constituted under the repealed Act on the commencement of this Act is to, as soon as practicable after that commencement —
  - (a) perform the functions described in section 10; and
  - (b) prepare a report on its operations in respect of —
    - (i) the financial year ending on the last preceding 30 June; and
    - (ii) the period commencing on the last preceding 1 July and ending when there are no moneys in the Relief Fund and no moneys to be paid into the Relief Fund.
- (2) The reports prepared under subsection (1)(b) are to comply, with any necessary modifications, with the provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities.
- (3) A report under subsection (1)(b)(ii) is deemed to be an annual report for the purposes of section 69 of the *Financial Administration and Audit Act 1985*.

**12. Expiry of revived provisions**

When the Minister is satisfied that there are no moneys in the Relief Fund and no moneys to be paid into the Relief Fund, the Minister is to make an order to that effect, and publish that order in the *Gazette*.

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