

**COAL INDUSTRY
SUPERANNUATION AMENDMENT
ACT 1995**

No. 46 of 1995

AN ACT to amend the *Coal Industry Superannuation Act 1989*.

[Assented to 1 November 1995.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Coal Industry Superannuation Amendment Act 1995*.

Commencement

2. This Act comes into operation on such day as is fixed by proclamation.

Principal Act

3. In this Act the *Coal Industry Superannuation Act 1989** is referred to as the principal Act.

[* Act No. 28 of 1989.

*For subsequent amendments see 1994 Index to
Legislation of Western Australia, Table 1, p. 34.]*

Long title amended

4. The long title to the principal Act is amended —

- (a) by deleting “**to provide for a compulsory retirement age, and a superannuation scheme, for mine workers,**”;
- (b) by inserting after “**Coal Industry Superannuation Fund,**” the following —

“

**to provide for a superannuation
scheme for mine workers and officers
of the Board,**

”.

and

- (c) by deleting “**that fund**” and substituting the following —

“ **the Fund** ”.

Section 3 amended

5. Section 3 (1) of the principal Act is amended —

- (a) by deleting the definitions of “Commonwealth Act”, “Commonwealth standards” and “compulsory retirement age”;
- (b) in the definition of “Commissioner” by deleting “Commonwealth Act” and substituting the following —

“ SIS Act ”; and

- (c) by inserting in the appropriate alphabetical positions the following definitions —

“

“Administration Manager” means the
Administration Manager appointed
under section 19;

“delegate” means a person to whom any
function of the Board is delegated
under section 16;

“investment manager” means an
investment manager appointed under
section 18;

“officer” of the Board, means —

- (a) the Administration Manager;
and
- (b) any person appointed to be an
officer of the Board under
section 21 (1);

“SIS Act” means —

- (a) the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth; and
- (b) any regulations or other instrument in force under that Act;

”.

Part 2 repealed

6. Part 2 of the principal Act is repealed.

Section 7 amended

7. Section 7 (5) of the principal Act is amended by deleting “*Public Service Act 1978*” and substituting the following —

“ *Public Sector Management Act 1994* ”.

Section 8 amended

8. (1) Section 8 (1) (a) of the principal Act is amended by inserting after “Governor” the following —

“ in accordance with the requirements of the SIS Act ”.

(2) The amendment effected by subsection (1) does not affect the validity of the appointment of the person holding office as chairman of the Board immediately before the commencement of this section.

Section 9 amended

9. Section 9 (1) of the principal Act is amended by inserting after “mine workers” the following —

“ and officers of the Board ”.

Section 10A repealed and sections substituted

10. Section 10A of the principal Act is repealed and the following sections are substituted —

“

Compliance with SIS Act

10A. (1) The Board shall ensure that, so far as practicable —

- (a) the requirements of the SIS Act are complied with so far as they relate to the Fund; and
- (b) any direction given by the Commissioner under the SIS Act in relation to the Fund is complied with.

(2) The Board may do anything that is necessary or convenient to be done to enable it to comply with subsection (1).

(3) The Board and any other person shall not do anything under this Act that is inconsistent with the requirements of the SIS Act.

(4) This section has effect notwithstanding any other provision of this Act.

**Consent of Board to be obtained if required
under SIS Act**

10AA. If the SIS Act requires a person to obtain the consent of the Board before exercising any discretion under this Act, the person shall not exercise that discretion without first obtaining that consent.

”.

Section 18 amended

11. Section 18 (1) of the principal Act is amended by inserting after “The Board may” the following —

“ , by instrument in writing, ”.

Section 19 amended

12. Section 19 (1) of the principal Act is amended by inserting after “shall” the following —

“ , by instrument in writing, ”.

Section 21 amended

13. Section 21 of the principal Act is amended —

- (a) in subsection (1) by deleting “In addition to the officers appointed under sections 18, 19 and 20, the Board may appoint such officers” and substituting the following —

“

In addition to the Administration Manager appointed under section 19, the Board may appoint such other officers

”;

- (b) in subsection (2) by deleting “, after consultation with the Public Service Commissioner,”; and
- (c) in subsection (4) (a) by deleting “*Public Service Act 1978*” and substituting the following —

“

Part 3 of the *Public Sector Management Act 1994*

”.

Section 27 amended

14. Section 27 (2) of the principal Act is amended by inserting after “delegate” in each place where it occurs the following —

“ or investment manager ”.

Section 31 amended

15. Section 31 of the principal Act is amended —

- (a) in paragraph (a) by inserting after “mine workers” the following —

“ and officers of the Board ”;

- (b) by deleting the full stop after paragraph (k) and substituting a semicolon; and
- (c) by inserting after paragraph (k) the following paragraph —

“

(l) providing for any other matter necessary to achieve compliance with the SIS Act.

”.

Schedule 1 amended

16. Schedule 1 to the principal Act is amended by inserting after "Griffin Coal Mining Pty Limited" the following —

" The Board ".

Schedule 2 amended

17. Schedule 2 to the principal Act is amended —

- (a) by deleting clause 6 and substituting the following clauses —

"

How vacancies occur

6. (1) The office of a member of the Board becomes vacant if —

- (a) the member dies;
- (b) the member is removed from office under subclause (2);
- (c) the member —
 - (i) becomes a disqualified person within the meaning of Part 15 of the SIS Act; or
 - (ii) is suspended or removed under Part 17 of that Act;
- (d) the member resigns his or her office by notice in writing delivered to the Board;

- (e) the member's tenure of that office expires;
- (f) the member ceases to satisfy a condition that the member was required to satisfy to be eligible for appointment;
- (g) the member is absent without leave of the Board from 4 consecutive meetings of the Board of which the member has had notice;
- (h) in the case of the chairman, the chairman ceases to be an independent director within the meaning of the SIS Act; or
- (i) in the case of an elected member, the member —
 - (i) ceases to be a member of the Fund; or
 - (ii) is removed from office under subclause (3).

(2) The Governor may remove a member of the Board on the grounds of misbehaviour or incompetence or mental or physical incapacity that impairs the performance of the member's duties.

(3) An elected member may be removed from office by a motion passed in accordance with the regulations at a general meeting of members of the Fund held in accordance with the regulations.

(4) In this clause, “**member**” includes an alternate member of the Board.

Vacancies to be filled within certain period

6A. If the office of a member of the Board (other than the chairman) becomes vacant, the Board shall ensure that as far as practicable the vacancy is filled within the prescribed period after it occurred.

”;

- (b) in clause 8 by deleting subclauses (5) and (6) and substituting the following subclauses —

“

(5) A decision of the Board shall only be taken to have been made if not less than two-thirds of the total number of members of the Board have voted for it.

(6) The chairman and any other member of the Board shall not have a second or casting vote.

”;

- (c) by deleting clause 9; and
- (d) by deleting clause 14 and substituting the following clause —

“

Protection from liability

14. The Board or a member of the Board is not liable for any act or omission that occurred in the performance or purported performance of any function under this Act

unless, in relation to that act or omission,
the Board or member —

- (a) failed to act honestly; or
- (b) intentionally or recklessly failed
to exercise a sufficient degree of
care and diligence.

”.
