

WESTERN AUSTRALIA

COAL MINE WORKERS (PENSIONS) AMENDMENT ACT

No. 91 of 1986

AN ACT to amend the *Coal Mine Workers (Pensions) Act 1943*.

[Assented to 10 December 1986.]

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

Short title

1. This Act may be cited as the *Coal Mine Workers (Pensions) Amendment Act 1986*.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent

Principal Act

3. In this Act the *Coal Mine Workers (Pensions) Act 1943** is referred to as the principal Act.

[*Reprinted as approved 7 November 1984 and amended by Acts Nos. 75 and 98 of 1985.]

Section 2 amended

4. Section 2 of the principal Act is amended—

(a) in subsection (1) in the definition of “Mine worker”—

(i) by deleting paragraphs (a), (b) and (d) and substituting the following paragraph—

“ (a) a person who is employed in the coal mining industry of Western Australia pursuant to an award under the *Industrial Relations Act 1979* or the Conciliation and Arbitration Act, other than a person who is for the time being excluded by a determination of the Tribunal under section 2A; ”;

(ii) in paragraph (f) by deleting “1902” and substituting the following—

“ 1946 ”;

(iii) in paragraph (g)—

(A) by deleting “Arbitration Act 1912-1941” and substituting the following—

“ Relations Act 1979 ”; and

(B) by deleting “any one or more of the classes referred to in paragraphs (a) to (f) of ”;

(iv) in paragraph (i) by deleting “to the point of delivery mentioned in paragraph (d) of this interpretation” and substituting the following—

“ in or about a coal mine ”; and

(v) by deleting paragraphs (j) and (k);

(b) by inserting after subsection (1) the following subsection—

“ (1aa) A person who was a mine worker before the commencement of the *Coal Mine Workers (Pensions) Amendment Act 1986*, and who, but for this subsection, would be excluded from the definition of “Mine worker” only because that person was not employed in the coal mining industry of Western Australia pursuant to an award under the *Industrial Relations Act 1979* or the Conciliation and Arbitration Act shall, for the purposes of this Act, be deemed to be a person who is employed pursuant to such an award. ”; and

(c) in subsection (5), in paragraph (a) by deleting “a mine worker according to the interpretation given to that expression by subsection (1) of this section” and substituting the following—

“ , or is likely to have been, a mine worker according to the definition of “Mine worker” under this section ”.

Section 2A inserted

5. After section 2 of the principal Act the following section is inserted—

Tribunal may exclude person
from being a mine worker

“ 2A. (1) Where the Tribunal is of the opinion that it is not likely that a person will become entitled to a pension or other benefit under this Act as, or in respect of, a person who is employed in the coal mining industry of Western Australia pursuant to an award under the *Industrial Relations Act 1979* or the Conciliation and Arbitration Act, the Tribunal may make a written determination excluding the person so employed from the definition of “Mine worker”.

(2) Where—

(a) a person has made regular contributions to the Fund as a mine worker; and

- (b) the Tribunal has determined that the person be excluded from the definition of "Mine worker",

the Tribunal shall—

- (c) refund the amount paid by way of contributions and interest thereon under section 21 (5); and
- (d) determine the period of service in respect of which contributions refunded were made and that period of service shall be disregarded in the ascertainment of any future or other benefits under this Act to that mine worker or to any other person whose entitlement is derived through that mine worker.

(3) Where the Tribunal is of the opinion that there has been a change in the circumstances which the Tribunal considered in making a determination under subsection (1), then the Tribunal may make a further written determination in respect of that person providing that, from a date specified in that determination, the person is no longer excluded from the definition of "Mine worker".

(4) Where under subsection (3) the Tribunal determines that a person is no longer excluded from the definition of "Mine worker" and that person has repaid to the Tribunal any amount paid to him under subsection (2) and interest on that amount at a rate determined by the Tribunal, then the period of service in respect of which contributions refunded were made shall be included when ascertaining any future or other benefits to that mine worker or to any other person whose entitlement is derived through that mine worker. "

Section 3 amended

6. Section 3 of the principal Act is amended—

- (a) in subsection (1) by deleting "employed in or about a coal mine" and substituting the following—

" a mine worker "; and
- (b) in subsection (2) by deleting "actually worked in or about a coal mine" and substituting the following—

" been a mine worker ".

Section 5 amended**7. Section 5 of the principal Act is amended—****(a) in subsection (1)—**

- (i) by deleting the comma at the end of paragraph (b) and substituting a full stop; and
- (ii) by deleting “but nothing in this subsection prevents a mine worker from retiring at any time after he attains the age of 58 years.”; and

(b) by inserting after subsection (1) the following subsection—

“ (1a) Notwithstanding subsection (1), a mine worker may retire at any time—

- (a) if the mine worker has been a mine worker for 30 years, after attaining the age of 55 years; or
- (b) after attaining the age of 58 years. ”.

Section 7 amended**8. Section 7 of the principal Act is amended in subsection (2) (a) (iii)—****(a) in item (I) by deleting “of 58 years” and substituting the following—**

“ at which the mine worker may retire under section 5 (1a) ”; and

(b) in item (II) by deleting “of 58 years” and substituting the following—

“ at which the mine worker may retire under section 5 (1a) ”.

Section 10 amended**9. (1) Section 10 of the principal Act is amended in subsection (1)—****(a) in paragraph (c) by deleting “58 years of age” and substituting the following—**

“ the age at which the mine worker may retire under section 5 (1a) ”; and

- (b) by inserting before “any person in respect of whom” the following—

“ a surviving spouse of that person or ”.

(2) A pension, lump sum or other benefit paid by the Tribunal under the principal Act before the commencement of subsection (1) (b) which would have been lawfully paid if that provision had been in operation at the time the payment was made is hereby declared to be and always to have been lawfully paid.

Section 14 amended

10. Section 14 of principal Act is amended—

- (a) in subsection (2b)—

(i) by deleting “to a maximum of 480 months”;

and

(ii) by inserting after “payable to” the following—

“ , or in respect of, ”; and

- (b) by repealing subsection (3) and substituting the following subsection—

“ (3) Subject to this section, where, but for this subsection, a pension or pensions would have been payable under this Act on the death of a mine worker, a lump sum payment, calculated under subsection (2b) modified in accordance with subsection (4), shall be payable in lieu of that pension or those pensions—

(a) to the spouse of the mine worker;

(b) if no amount is payable under paragraph (a), on trust for the children (whether legitimate or illegitimate) or the step children of the mine worker who were, at the death of the mine worker—

(i) under the age of 16 years; and

(ii) totally or mainly dependent on the earnings of the mine worker. ”.

Section 17 amended

11. (1) Section 17 of the principal Act is amended by repealing subsection (7) and substituting the following subsection—

“ (7) Subject to this Act, the members of the Tribunal shall hold office for a period of 3 years and shall be eligible for reappointment. ”.

(2) Notwithstanding anything in the instrument of appointment under which the chairman of the Tribunal who holds office at the commencement of this Act was appointed, that office shall expire on the day on which the terms of office of the other members of the Tribunal expire.

Section 21 amended

12. Section 21 of the principal Act is amended—

(a) in subsection (2) by deleting paragraph (ea); and

(b) by repealing subsections (5) and (5a) and substituting the following subsection—

“ (5) Where a person—

(a) has made regular contributions to the Fund as a mine worker;

and

(b) ceases to be employed as a mine worker in circumstances which do not entitle that person, or any other person, to a pension or a lump sum payment under this Act,

the Tribunal shall pay to that person or to the surviving spouse or personal representatives or assigns of that person, the amount of the contributions paid by that person and interest on that amount calculated on the balance of contributions as at 30 June in each year at the rate per annum payable as at that date by the Commonwealth Savings Bank in a respect of a corresponding amount in a savings account. ”.