

## COAL AND OIL SHALE MINE WORKERS (PENSIONS) AMENDMENT ACT.

Act No. 12, 1942.

An Act to amend the Coal and Oil Shale Mine Workers (Pensions) Act, 1941, in certain respects; to validate certain matters; and for purposes connected therewith. [Assented to, 19th June, 1942.]

George VI.  
No. 12, 1942.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Coal and Oil Shale Mine Workers (Pensions) Amendment Act, 1942." Short title.

(2) The Coal and Oil Shale Mine Workers (Pensions) Act, 1941, as amended by this Act, may be cited as the Coal and Oil Shale Mine Workers (Pensions) Act, 1941-1942.

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Amendment  
of Act No.  
45, 1941.  
Sec. 2.  
(Defini-  
tions.)

**2.** (1) The Coal and Oil Shale Mine Workers (Pensions) Act, 1941, is amended—

(a) (i) by omitting from paragraph (c) of the definition of "Mine worker" in section two the words "after the first day of February, one thousand nine hundred and thirty and";

(ii) by omitting from paragraph (ii) of the proviso to the same definition the words "known as the colliery engineer" and by inserting in lieu thereof the words "described in the Sixth Schedule to the Coal Mines Regulation Act, 1912-1941, as the Mechanical Engineer";

(iii) by inserting at the end of subsection three of the same section the following new proviso:—

Provided that where any mine worker, who is continued in employment as a mine worker under and in accordance with a certificate issued by the Tribunal under subsection four of section five of this Act, retires or is retired from such employment, a reference in any provision of this Act to the "date of retirement" shall, in the application of that provision to and in respect of that mine worker, be construed as a reference to the date upon which he so retires or is retired.

**New sec. 2A.**

(b) by inserting next after section two the following new section:—

Extension  
of definition  
of "Mine  
worker."

2A. (1) A reference in this section to the commencement of this section shall be construed as a reference to the date upon which the assent of His Majesty to the Coal and Oil Shale Mine Workers (Pensions) Amendment Act, 1942, is signified.

(2) As from the commencement of this section the definition of "Mine worker" in subsection one of section two of this Act shall be extended to include the manager and under manager

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manager of a mine and the classes of persons referred to in paragraphs (ii) and (vi) of the proviso to that definition and a person engaged in clerical work in connection with a coal or oil shale mine where such person is employed in or about a coal or oil shale mine by the owner of the mine.

(3) (a) The retiring age of a person being a member of the class referred to in paragraph (vi) of the said proviso shall be sixty years.

(b) The retiring age of persons being the manager or under manager of a mine or a member of the class referred to in paragraph (ii) of the said proviso or a person of the class referred to in subsection two of this section engaged in clerical work in connection with a coal or oil shale mine shall be sixty-five years.

(4) As from the commencement of this section the provisions of this Act shall, subject to this section, apply to and in respect of persons who are members of the classes referred to in subsection two of this section:

Provided that the provisions of this Act, in their application to and in respect of persons who are members of the classes referred to in paragraph (b) of subsection three of this section, shall be deemed to be modified to the following extent, that is to say—section five of this Act shall have and take effect as if the age of sixty-five years were substituted for the age of sixty years referred to therein, and references, express or implied, in that section, to the commencement of Part II of this Act, shall be construed as references to the commencement of this section, and references in this Act, to the “date of retirement” shall be construed accordingly.

- (c) (i) by inserting in paragraph (a) of subsection one of section seven before the word “that” where firstly occurring the symbols “(i)”;  
(ii) Sec. 7.  
(Pensions—  
permanent  
incapacity.)

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(ii) by omitting from the same paragraph the word "and" where lastly occurring and by inserting in lieu thereof the words and symbols—

"; or

(ii) that he has been incapacitated by injury arising out of and in the course of his employment as a mine worker and that such incapacity arose before the commencement of this Part but after the first day of January, one thousand nine hundred and twenty, and that, before the date upon which he became so incapacitated, he had been engaged in the coal or oil shale mining industries for a period of not less than twenty years; and"

Sec. 9.  
(Pensions—  
additional  
payments in  
respect of  
dependants.)

(d) (i) by inserting in paragraph (a) of subsection one of section nine, after the word "wife" where firstly occurring the words "or, where his wife is in receipt of or is eligible for an invalid or old age pension, an amount of one pound five shillings per week in respect of his wife";

(ii) by inserting next after the same subsection the following new subsection:—

(1a) Notwithstanding anything in subsection one of this section the Tribunal may refuse to award an addition to the pension of a mine worker in respect of his wife, or may cancel or suspend so much of any pension as consists of such addition, where it is satisfied that the wife is living apart from her husband and that the husband is not maintaining or contributing to the support of his wife.

(iii) by inserting at the end of the same section the following new subsections:—

(5) Where a mine worker, who becomes eligible for a pension under section six,  
section

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section seven or section eight of this Act, proves to the satisfaction of the Tribunal that his wife is an invalid and that by reason thereof he employs a female over the age of sixteen years (whether or not such female is a member of the mine worker's family) to care for his wife or for any child or step-child of the mine worker under the age of sixteen years, the Tribunal may, in lieu of the amount referred to in paragraph (a) or paragraph (c) of subsection one of this section, award to the mine worker an addition to his pension of an amount of one pound per week in respect of such female, or, where such female is in receipt of or is eligible for an old age pension, an amount of one pound five shillings per week in respect of such female.

(6) Where a pension is awarded to a mine worker pursuant to section six, section seven or section eight of this Act the Tribunal may, in its discretion, for the purpose of assisting in the further education of any child of the mine worker who is, at the date of the award, of or above the age of sixteen years, award an addition to such pension of an amount of eight shillings and sixpence per week in respect of such child for such period as it thinks fit not exceeding two years from the date of the award of the pension.

- (e) (i) by omitting from subsection one of section ten the words "and four" and by inserting in lieu thereof the words "four and six";
- (ii) by inserting next after the same subsection the following new subsections:—

Sec. 10.  
(Pension payable to dependants.)

(1A) The Tribunal may award a pension to the widow of any mine worker who dies on or after the twenty-first day of November, one thousand nine hundred and forty-one (being the day appointed and notified

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notified for the commencement of Part II of this Act).

(1B) The Tribunal may award a pension to the widow of any person who was, at any time after the first day of January, one thousand nine hundred and twenty, engaged in the coal or oil shale mining industries in New South Wales, and who died before the commencement of this Act, where the Tribunal is satisfied that the granting of such a pension would not be inconsistent with the general scope and purpose of this Part and that, having regard to all the circumstances of the particular case, it is just and equitable to award a pension to such widow.

(1c) The amount of any pension awarded to a widow under subsection (1A) or subsection (1B) of this section shall be one pound ten shillings per week and such pension shall be payable until the death or remarriage of such widow.

(iii) by inserting in subsection two of the same section after the words "subsection one" the words "or subsection (1A) or subsection (1B)";

(iv) by inserting in paragraph (a) of subsection three of the same section after the words "amount of the lump sum" the words "together with all amounts received by way of weekly payments of compensation in respect of the same injury";

(f) by inserting next after section ten the following new section:—

10A. Where the Tribunal is satisfied that—

(a) at the date upon which a mine worker was awarded a pension under this Act;  
or

(b) at the date of the death of—

(i) a person who had been awarded a pension under section six,  
section

New sec.  
10A.

De facto  
wife.  
cf. Act No.  
6, 1920  
(Cwth.),  
sec. 36.

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section seven or section eight of  
this Act; or

- (ii) a mine worker whose death has  
been found to have been due to  
injury arising out of and in the  
course of his employment as a  
mine worker (not being an inten-  
tional self-inflicted injury),

any female was recognised as the wife of such  
mine worker or person although not legally  
married to him, the Tribunal may award an  
addition under section nine of this Act or a  
pension under section ten of this Act as if such  
female were the wife or widow of such mine  
worker or person:

Provided that no such award shall be made  
where an addition under section nine of this  
Act or a pension under section ten of this Act  
has been awarded to or in respect of the wife  
or widow of such mine worker or person.

- (g) by omitting subsection four of section eleven;

Sec. 11.  
(Pensions—  
Special  
provi-  
visions.)

- (h) by inserting next after section eleven the fol-  
lowing new sections:—

New secs.  
11A and 11B.

11A. (1) If any person to whom a pension has  
been awarded under section six of this Act  
engages in employment then the total amount  
payable to him as pension (including all addi-  
tions for which he may be eligible under section  
nine of this Act) shall be reduced by the amount  
by which the sum of such total amount and the  
average weekly earnings of such person from  
such employment exceeds five pounds per week.

Earnings  
from  
employment.

(2) If any widow or female dependant  
to whom a pension has been awarded under sec-  
tion ten of this Act engages in employment then  
the amount payable to her as pension shall be  
reduced by the amount by which the sum of such  
pension

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pension and the average weekly earnings from such employment exceeds two pounds ten shillings per week.

Power to  
cancel  
pensions.

11B. (1) Where a person has been awarded a pension pursuant to section eight of this Act the Tribunal may, from time to time, review the case, and may, if satisfied that, having regard to a change in the circumstances of the particular case, it is just and equitable so to do, cancel the pension.

(2) The Tribunal may cancel any pension awarded under this Act where it is satisfied that the award of the pension was improperly obtained or that the award of the pension was contrary to the provisions of this Act.

Sec. 12.  
(No pension  
where com-  
pensation  
payable.)

- (i) (i) by inserting in paragraph (b) of subsection two of section twelve after the words "amount of the lump sum" the words "together with all amounts received by way of weekly payments of compensation in respect of the same injury";
- (ii) by inserting at the end of the same section the following new subsection:—

(4) Notwithstanding anything in the foregoing provisions of this section a mine worker who is eligible for a pension under section six of this Act and who is in receipt of weekly payments of compensation under the Workers' Compensation Act, 1926-1938, may be awarded such pension where the total amount payable to him by way of pension (including all additions for which he may be eligible under section nine of this Act) exceeds the amount of such weekly payments:

But the amount so payable by way of pension (including such additions) shall be reduced by the amount of such weekly payments.

Sec. 13.  
(Deductions  
from  
pensions.)

- (j) (i) by omitting from subsection one of section thirteen the words "old age or war" and by inserting



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inserting in lieu thereof the words "or old age";

- (ii) by inserting at the end of the same subsection the following proviso:—

Provided that the Tribunal may dispense with any deduction under this subsection in respect of invalid or old age pension in the case of payments of pensions made after the date upon which the pension under this Act is awarded and before the date upon which the invalid or old age pension becomes payable.

(2) The amendments made by subparagraph (ii) of paragraph (a), by subparagraph (iv) of paragraph (e), by subparagraph (i) of paragraph (i) and by paragraph (j) of subsection one of this section shall be deemed to have commenced on the eighth day of October, one thousand nine hundred and forty-one.

**3.** (1) The Coal and Oil Shale Mine Workers (Pensions) Act, 1941, is further amended—

- (a) by omitting from subsection two of section six the words "one pound ten shillings" and by inserting in lieu thereof the words "two pounds";

- (b) by omitting from subsection three of the same section the words "one pound ten shillings" and by inserting in lieu thereof the words "two pounds."

Further amendment of Act No. 45, 1941.

Sec. 6. (Pensions—mine workers who are retired.)

(2) Subsection one of this section shall be deemed to have commenced on the eighth day of October, one thousand nine hundred and forty-one.

**4.** The following matters are hereby validated, that is to say— **Validations.**

- (a) the action of the Tribunal in awarding and paying pensions as from the date of vacation of their employment to mine workers who were of or above the age of sixty years at the commencement of Part II of the Coal and Oil Shale Mine Workers (Pensions) Act, 1941, or who attained that age within the period of three months after such

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such commencement and who were retired from and vacated their employment before the expiration of the period of three months after such commencement;

- (b) the action of the Tribunal in awarding and paying pensions without regard to any deduction in respect of invalid or old age pensions where such payments were made between the date upon which the pension under this Act was awarded and the date upon which the invalid or old age pension became payable.
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