

**COAL AND OIL SHALE MINE WORKERS
(SUPERANNUATION) AMENDMENT ACT.**

Act No. 37, 1950.

**George VI,
No. 37, 1950.**

An Act to increase the rates of pensions payable under the Coal and Oil Shale Mine Workers (Pensions) Act, 1941-1949; for this and other purposes to amend the said Act in certain respects; to validate certain matters; and for purposes connected therewith. [Assented to, 20th November, 1950.]

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 New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**Short title,
commence-
ment and
citation.**

1. (1) This Act may be cited as the "Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1950."

(2) This Act shall, except where otherwise expressly provided, commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) The Coal and Oil Shale Mine Workers (Pensions) Act, 1941, as amended by subsequent Acts and by this Act, may be cited as the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941-1950.

**Amendment
of Act No.
45, 1941.**

2. The Coal and Oil Shale Mine Workers (Pensions) Act, 1941-1949, is amended—

**Sec. 1.
(Short
title.)**

(a) by omitting from subsection one of section one the word "Pensions" and by inserting in lieu thereof the word "Superannuation";

(b)

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- (b) by inserting next after section 2B the following new section:—

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New sec. 2c.

2c. (1) A reference in this section to the commencement of this section shall be construed as a reference to the date of commencement of the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1950.

Further extension of definition of "Mine worker."

(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—

(a) a person who contracts with the owner of a coal or oil shale mine in New South Wales or with any other person for the transport of coal or oil shale from the mine to the point of delivery where such coal or oil shale is to be delivered by the owner of the mine at such point of delivery and who is principally engaged in such transport and who in the course of such engagement uses not more than one vehicle at any one time;

(b) a person—

(i) who is employed by any person who contracts with the owner of a coal or oil shale mine in New South Wales or with any other person for the transport of coal or oil shale from the mine to the point of delivery where such coal or oil shale is to be delivered by the owner of the mine at such point of delivery, and

(ii) who is principally engaged in such transport;

(c) a person who is employed by the owner of a coal or oil shale mine in New South Wales and who, in the course of such employment,

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employment, is principally engaged in screening, washing or loading coal or oil shale at the point of delivery;

- (d) a person who is employed in the making of coke, otherwise than as an employee of any person supplying or distributing gas for lighting, heating, motive power or other purpose or of the Broken Hill Proprietary Company Limited or of Australian Iron & Steel Ltd., or of any other person whose employees the Governor from time to time by proclamation published in the Gazette declares not to be mine workers, and who on the sixteenth day of October, one thousand nine hundred and forty-nine, was employed as aforesaid and had attained the age of fifty-five years.

For the purposes of this subsection "point of delivery" has the meaning ascribed to that expression in paragraph (e) of the definition of "Mine worker" in subsection one of section two of this Act.

(3) (a) The retiring age of persons being members of the classes referred to in paragraphs (a), (b) and (c) of subsection two of this section shall be sixty years.

(b) The retiring age of persons being members of the class referred to in paragraph (d) of the said subsection shall be sixty-five years:

Provided that any person to whom this paragraph applies may retire or be retired at any time after he attains the age of sixty years and before he attains the age of sixty-five years, and in any such case a reference in any provision of this Act to the "date of retirement" shall, notwithstanding anything elsewhere contained in this Act, in the application of that provision to and in respect of such person be construed as a reference to the date upon which he so retires or is retired.

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(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 by virtue of subsection two of this section are mine workers: No. 37, 1950.

Provided that the provisions of this Act in their application to and in respect of such persons shall be deemed to be modified to the following extent, that is to say—references, express or implied, in this Act, to the commencement of Part II of this Act, shall be construed as references to the commencement of this section:

Provided further that the provisions of this Act in their application to and in respect of any person who is a member of the class referred to in paragraph (d) of subsection two of this section shall be deemed to be modified to the following extent, that is to say—sections five and six of this Act shall have and take effect as if the age of sixty-five years or, where such person retires or is retired before the age of sixty-five years, the age at which such person retires or is retired were substituted for the age of sixty years referred to therein, and references in this Act to the “date of retirement” shall be construed accordingly.

(5) For the purposes of assessing contributions of owners under section nineteen of this Act a person who by virtue of paragraphs (a) and (b) of subsection two of this section is a mine worker shall be deemed to be employed by the owner of the mine from which such person transports coal or oil shale.

(c) by inserting in subsection six of section three after the word “Act” where thirdly occurring the words and symbols “and in subsection two of section 2c of this Act.”

Sec. 3.
(Special provisions as to calculation of periods of employment.)

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Further
amendment
of Act No.
45, 1941.
Sec. 6.

(Pensions—
mine
workers
who are
retired.)

3. (1) The Coal and Oil Shale Mine Workers (Pensions) Act, 1941-1949, is further amended—

(a) by inserting at the end of section six the following new subsection:—

(7) (a) The amount of pension per week payable to any mine worker who has, before the commencement of section three of the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1950, been awarded a pension pursuant to subsection one, (1A), two or three of this section, shall as on and from such commencement and notwithstanding anything contained in this section be three pounds seven shillings and six pence.

(b) The amount of pension per week payable to any mine worker who, on or after such commencement, becomes eligible for a pension pursuant to subsection one, (1A), two or three of this section, shall as on and from the date of retirement and notwithstanding anything contained in this section be three pounds seven shillings and six pence.

Sec. 7.
(Pension—
permanent
incapacity.)

(b) by omitting from subsections one and (1A) of section seven the words “two pounds fifteen shillings” wherever occurring and by inserting in lieu thereof the words “three pounds seven shillings and six pence”;

Sec. 8.
(Hard luck
cases.)

(c) by omitting from subsection one of section eight the words “two pounds fifteen shillings” and by inserting in lieu thereof the words “three pounds seven shillings and six pence”;

Sec. 9.
(Pensions—
additional
payments in
respect of
depend-
ants.)

(d) (i) by omitting from subsection one of section nine the words “two pounds two shillings and six pence” wherever occurring and by inserting in lieu thereof the words “two pounds twelve shillings and six pence”;

(ii) by omitting from subsection five of the same section the words “one pound ten shillings” and by inserting in lieu thereof the words “two pounds five shillings”;

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- (iii) by inserting next after subsection five of No. 37, 1950. the same section the following new subsection:—

(5A) Where a mine worker, who becomes eligible for or has been awarded a pension under section six, section seven, or section eight of this Act and who is not eligible for an addition to his pension pursuant to paragraph (a) or (c) of subsection one or pursuant to subsection five of this section, proves to the satisfaction of the Tribunal that he is an invalid, and that by reason thereof he employs a female relative over the age of sixteen years to care for him, and that his monetary circumstances warrant an addition to his pension the Tribunal may award an addition to his pension of an amount of two pounds five shillings per week in respect of such female.

- (e) (i) by omitting from section ten the words “two pounds five shillings” wherever occurring and by inserting in lieu thereof the words “two pounds twelve shillings and six pence”;
- (ii) by inserting next after subsection (1D) of the same section the following new subsection:—

Sec. 10.
(Pension payable to dependants.)

(1E) Where any female who becomes eligible for or has been awarded a pension under this section proves to the satisfaction of the Tribunal that she is an invalid, and that by reason thereof she is permanently incapable of performing her domestic duties and employs a female over the age of sixteen years to care for her, and that her monetary circumstances warrant an addition to her pension the Tribunal may award an addition to her pension of an amount of two pounds five shillings per week.

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- (iii) by inserting next after subsection (1E) (as inserted by subparagraph (ii) of this paragraph) of the same section the following new subsection:—

(1F) Upon the death of a mine worker who at any time has been a contributor to the Coal Mine Workers' Pensions Fund or the Oil Shale Mine Workers' Pensions Fund the Tribunal may award to the persons referred to in paragraphs (b) and (d) of subsection one and in subsections two, three, four and six of section nine of this Act in respect of whom such mine worker, if he had remained alive, would have been eligible for an addition to his pension under any of the said paragraphs or subsections pensions of an amount equal to the amounts referred to in those paragraphs and subsections and for the periods specified in those paragraphs and subsections.

- (iv) by omitting subsections two, three, (3A) and four of the same section;

**Sec. 10A.
(De facto
wife.)**

- (f) (i) by omitting from subsection three of section 10A the words "two pounds five shillings" and by inserting in lieu thereof the words "two pounds twelve shillings and six pence";
- (ii) by inserting at the end of the same section the following new subsection:—

(5) Where any female who has been awarded a pension under this section proves to the satisfaction of the Tribunal that she is an invalid, and that by reason thereof she is permanently incapable of performing her domestic duties and employs a female over the age of sixteen years to care for her, and that her monetary circumstances warrant an addition to her pension the Tribunal may award an addition to her pension of an amount of two pounds five shillings per week.

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(2) (a) The amendments made by paragraph (b), ^{No. 37, 1950.} paragraph (c) and subparagraphs (i) and (ii) of paragraph (d) of subsection one of this section shall be deemed to extend to and from the commencement of this section apply in respect of all mine workers who were immediately before such commencement in receipt of a pension pursuant to section six, seven or eight or an addition to a pension pursuant to section nine of the Coal and Oil Shale Mine Workers (Pensions) Act, 1941-1949, as well as to mine workers becoming eligible for any such pension or addition thereto after such commencement.

(b) The amendments made by subparagraph (i) of paragraph (e) and subparagraph (i) of paragraph (f) of subsection one of this section shall be deemed to extend to and from the commencement of this section apply in respect of all persons who were immediately before such commencement in receipt of a pension pursuant to section ten or 10A of the Coal and Oil Shale Mine Workers (Pensions) Act, 1941-1949, as well as to persons becoming eligible for any such pension after such commencement.

(3) The amendment made by subparagraph (iii) of paragraph (c) of subsection one of this section shall be deemed to have commenced upon the nineteenth day of June, one thousand nine hundred and forty-two.

(4) The amendments made by subparagraph (iii) of paragraph (d), subparagraphs (ii) and (iv) of paragraph (e) and subparagraph (ii) of paragraph (f) of subsection one of this section shall commence upon the day appointed and notified pursuant to subsection two of section one of this Act.

(5) This section shall, except where otherwise expressly provided, commence or be deemed to have commenced upon the date upon which any increase in age, invalid or widow's pension granted after the date upon which His Majesty's assent to this Act is signified under any legislation of the Commonwealth relating to Social Services takes effect.

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Further
amendment
of Act No.
45, 1941.
Sec. 12.

(No pen-
sion while
compensa-
tion pay-
able.)

4. (1) The Coal and Oil Shale Mine Workers (Pensions) Act, 1941-1949, is further amended—

(a) (i) by inserting in paragraph (a) of subsection two of section twelve after the word “Act” the words “other than weekly payments of compensation in respect of an injury mentioned in the first column of the table to section sixteen of that Act”;

(ii) by omitting from paragraph (b) of the same subsection the words “elects or has elected, pursuant to section sixteen of that Act, to accept an amount payable in accordance with the table to that section, or”;

(iii) by omitting from the same paragraph the words “the amount payable in accordance with the said table or”;

(iv) by omitting from the same paragraph the words “as the case may be” and by inserting in lieu thereof the words “less such portion of such lump sum as the Tribunal is satisfied has either before or after the commencement of the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1950, been applied by the mine worker in the purchase of his home, redeeming any mortgage on his home, or payment of medical expenses in connection with the injury sustained by him”;

(v) by inserting in paragraph (c) of the same subsection after the figures “1938” where firstly occurring the words “other than compensation in respect of an injury mentioned in the first column of the table to section sixteen of that Act”;

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(vi) by inserting next after the same subsection **No. 37, 1950.**
the following new subsection:—

(2A) The disqualification under subsection one of this section shall not apply to—

- (a) a mine worker who accepts or has accepted weekly payments of compensation in respect of an injury mentioned in the first column of the table to section sixteen of the Workers' Compensation Act, 1926-1948;
- (b) a mine worker who elects or has elected pursuant to section sixteen of that Act to accept an amount payable in accordance with the table to that section.

(vii) by inserting in subsection three of the same section after the word "injury" the words "not being an injury mentioned in the first column of the table to section sixteen of that Act";

(viii) by omitting from subsection four of the same section the words "is eligible" and by inserting in lieu thereof the words "would, but for such provisions, be eligible to receive";

(ix) by inserting at the end of the same section the following new subsection:—

(5) Notwithstanding anything in the foregoing provisions of this section the disqualification under subsection one of this section shall—

- (a) in respect of any mine worker who, before the date of commencement of the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1950, has retired or has been retired cease to have effect on the said date;
- (b)

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(b) in respect of any mine worker who, upon or after such commencement, retires or is retired cease to have effect upon the date upon which he retires or is retired.

Sec. 13.
(Deductions from pensions.)

(b) by omitting from section thirteen the words "or any service pension payable to or in respect of a pensioner, his wife, female dependant and one child under the Australian Soldiers' Repatriation Act 1920 of the Parliament of the Commonwealth or any amendment thereof."

(2) (a) The amendments made by paragraph (a) of subsection one of this section shall not operate to entitle any mine worker to a pension as well as compensation under the Workers' Compensation Act, 1926-1948, in respect of any period before the commencement of this Act.

(b) The amendment made by paragraph (b) of subsection one of this section shall be deemed to have commenced upon the sixteenth day of October, one thousand nine hundred and forty-nine.

Further amendment of Act No. 45, 1941.
Sec. 15.
(The Tribunal.)

5. (1) The Coal and Oil Shale Mine Workers (Pensions) Act, 1941-1949, is further amended—

(a) (i) by omitting from subsection two of section fifteen the words "each of whom other than the Chairman" and by inserting in lieu thereof the word "who";

(ii) by inserting in subsection three as paragraph (a) thereof the following paragraph:—

(a) one shall in and by the instrument of appointment be appointed Chairman of the Tribunal;

(iii) by omitting subsection (3A) of the same section;

(iv) by inserting in subsection eight of the same section as paragraph (a) thereof the following paragraph:—

(a) The member appointed Chairman of the Tribunal shall, subject to this Act,

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Act, hold office as such for such period as may be specified in and by the instrument of his appointment, and shall be eligible for re-appointment.

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- (b) by inserting at the end of subsection one of section 19B the following words:—

Sec. 19B.
(Amount of
subsidy.)

For the purposes only of this section the maximum amount per week which would be payable by way of compensation as aforesaid shall, in respect of a mine worker whose incapacity due to the inhalation of dust arose at any time before the date of commencement of the Coal and Oil Shale Mine Workers (Pensions) Further Amendment Act, 1947, be calculated as though the average weekly earnings of such mine worker had been not less than five pounds seven shillings.

- (c) by inserting at the end of subsection three of the same section the words “less such portion of such lump sum as the Tribunal is satisfied has either before or after the commencement of the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1950, been applied by the mine worker in the purchase of his home, redeeming any mortgage on his home, or payment of medical expenses in connection with incapacity due to the inhalation of dust.”

(2) The estimate made by the Pensions Tribunal constituted under the Coal and Oil Shale Mine Workers (Pensions) Act, 1941-1949, in accordance with section nineteen of that Act, of the amount required by the Coal Mine Workers' Pensions Fund and the Oil Shale Mine Workers' Pensions Fund for the period of twelve months commencing on the first day of July, one thousand nine hundred and fifty, shall be deemed to be varied to the extent necessary to include the amount required for payment of pensions increased or other sums payable by virtue of the operation of this Act, and the estimate as so varied shall for all purposes of the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941-1950, be deemed

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No. 37, 1950. deemed to be the estimate of the amount required by each such Fund for the aforesaid period of twelve months for payment of pensions and other sums chargeable upon or payable out of that Fund and for the provision of a reserve in connection with that Fund.

(3) The amendment made by paragraph (b) of subsection one of this section shall be deemed to have commenced upon the fifth day of November, one thousand nine hundred and forty-seven.

(4) The amendment made to subsection three of section 19B of the Coal and Oil Shale Mine Workers (Pensions) Act, 1941-1949, by paragraph (c) of subsection one of this section shall not operate to entitle any mine worker to payment of subsidy in respect of any period before the commencement of this Act in respect of which he was disqualified from receiving payment of subsidy by reason of the operation of that subsection as enacted immediately before such commencement.
