

**COAL AND OIL SHALE MINE WORKERS (SUPER-
ANNUATION) FURTHER AMENDMENT ACT.**

Act No. 54, 1957.

Elizabeth II,
No. 54, 1957. An Act to increase the rates of pensions and subsidy payable under the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941-1957; to include additional classes of persons as mine workers under the said Act; for these and other purposes to amend the said Act; to validate certain matters; and for purposes connected therewith. [Assented to, 9th December, 1957.]

BE it enacted by the Queen'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
and
citation.

1. (1) This Act may be cited as the "Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act, 1957". (2)

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(2) The Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, as amended by subsequent Acts and by this Act, may be cited as the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941-1957.

(3) The Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1957, is amended by omitting subsection two of section one.

Amendment
of Act
No. 18,
1957.
Sec. 1 (2).
(Consequen-
tial.)

2. (1) The Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, as amended by subsequent Acts, is amended—

Amendment
of Act
No. 45,
1941.

(a) (i) by omitting from paragraph (b) of subsection two of section two the words “he satisfies the Tribunal” and by inserting in lieu thereof the words “the Tribunal is satisfied”;

Sec. 2.
(Defini-
tions.)

(ii) by inserting at the end of the same subsection the following new paragraph:—

(c) for any period (whether before or after the day on which the assent of Her Majesty to the Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act, 1957, is signified) during which he is employed pursuant to a request by the Registrar to accept available employment under and in accordance with section 19F of this Act.

(b) (i) by omitting subparagraph (iii) of paragraph (c) of subsection two of section 2B;

Sec. 2B.
(Further
extension of
definition
of “Mine
worker”.)

(ii) by inserting at the end of the same subsection the following new paragraph:—

A person shall not be a mine worker by virtue of paragraph (c) of this subsection if he becomes an officer of the Department

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of Mines after the day on which the assent of Her Majesty to the Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act, 1957, is signified.

New sec.
2BA.

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

Certain clerical workers not to cease to be mine workers.

2BA. Any person who is a mine worker by virtue of his being a person engaged in clerical work in connection with a coal or oil shale mine in accordance with the provisions of subsection two of section 2A of this Act or by virtue of paragraph (b) of subsection two of section 2B of this Act shall not cease to be a mine worker by reason only of the clerical work in which he is engaged not being performed in accordance with the requirements of subsection two of section 2A of this Act or paragraph (b) of subsection two of section 2B of this Act by virtue of which he is a mine worker if such clerical work is clerical work in connection with a coal or oil shale mine and is performed at a mine office.

Sec. 2c.
(Further extension of definition of "Mine worker".)

- (d) (i) by omitting paragraphs (a) and (b) of subsection two of section 2c;
(ii) by omitting from paragraph (a) of subsection three of the same section the words "paragraphs (a), (b) and" and by inserting in lieu thereof the word "paragraph";
(iii) by omitting subsection five of the same section;

New secs.
2F and 2G.

- (e) by inserting next after section 2E the following new sections:—

Further extension of definition of "Mine worker".

2F. (1) A reference in this section to the commencement of this section shall be construed as a reference to the day on which the assent of Her Majesty to the Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act, 1957, is signified.

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(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 person—

(a) not being a mine worker by virtue of paragraph (e) of the definition of "Mine worker" in subsection one of section two of this Act, who the Tribunal upon application made to it by the industrial union of which such person is or is eligible to be a member is satisfied—

(i) was, immediately before the day on which the assent of Her Majesty to the Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act, 1957, was signified, principally engaged in the transport of coal or oil shale from the mine to the point of delivery to which such coal or oil shale is being delivered by the owner of such mine; or

(ii) is principally engaged in the transport of coal or oil shale from the mine to the point of delivery to which such coal or oil shale is being delivered by the owner of such mine; and

(b) who is an officer of the Department of Mines, not being a mine worker by virtue of paragraph (c) of subsection two of section 2B of this Act, and who—

(i) is engaged in or about a coal or oil shale mine in the performance of duties under the Coal Mines Regulation Act, 1912, as amended

by

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by subsequent Acts, connected with the provisions of that Act, as so amended, relating to the safety of persons employed in or about coal or oil shale mines;

(ii) was immediately before his appointment as an officer of the Department of Mines a contributor to the Fund; and

(iii) in the case of—

(a) a person appointed as an officer of the Department of Mines before the day on which the assent of Her Majesty to the Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act, 1957, is signified, within twenty-one days after such day; or

(b) a person appointed as such an officer after such day, within twenty-one days after his appointment,

notifies the Under Secretary for Mines and the Registrar that he elects to contribute to the Fund and not to the State Superannuation Fund established under the Superannuation Act, 1916, as amended by subsequent Acts.

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.

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(3) A person who is a mine worker by virtue of subparagraph (i) of paragraph (a) of subsection two of this section shall for the purposes of this Act be deemed to be "engaged in the coal or oil shale mining industries" for any period, whether before or after the day on which the assent of Her Majesty to the Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act, 1957, is signified, during which he was or is a contributor to the Fund.

(4) (a) The retiring age of persons being members of the classes referred to in paragraph (a) 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 (b) 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.

(5) 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:

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

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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 (b) 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.

(6) For the purposes of assessing contributions of owners under section nineteen of this Act a person who by virtue of paragraph (a) 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.

(7) Any mine worker who, pursuant to subparagraph (iii) of paragraph (b) of subsection two of this section, notifies the Under Secretary for Mines and the Registrar that he elects to contribute to the Fund and not to the State Superannuation Fund established under the Superannuation Act, 1916, as amended by subsequent Acts, shall be deemed not to be an employee within the meaning of that Act, as so amended.

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2g. (1) This section shall be deemed to have commenced upon the first day of January, one thousand nine hundred and fifty-six.

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 person who was employed in the Electricity Supply Department of Caledonian Collieries Limited at Cessnock, who was so employed during the period of five years immediately before the commencement of this section and who during that period was a contributor as a mine worker under this Act.

(3) The retiring age of persons who by virtue of subsection two of this section are mine workers shall be sixty 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 by virtue of subsection two of this section are mine workers:

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 first day of January, one thousand nine hundred and fifty-six.

(f) by inserting in subsection six of section three after the words "section 2c of this Act" the words "and in subsection two of section 2F of this Act";

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

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Sec. 5.

(Employment after sixty years of age prohibited.)

(g) by inserting at the end of section five the following new subsection:—

(6) In the application to and in respect of a mine worker who is a colliery surveyor of the provisions of this section and of section six of this Act—

(a) such provisions shall be deemed to be modified to the following extent, that is to say—references, express or implied, in the provisions of this section to the commencement of Part II of this Act shall be construed as references to the day on which the assent of Her Majesty to the Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act, 1957, is signified; and

(b) such provisions shall be deemed to be amended—

(i) by omitting the words “age of sixty years” wherever occurring and by inserting in lieu thereof the words “age of sixty-five years”; and

(ii) by inserting after the words “subsections one and two of this section” wherever occurring in this section the words “, as modified and deemed to be amended by paragraphs (a) and (b) of subsection six of this section,”:

Provided that any mine worker who is a colliery surveyor 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 this Act to the date
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of retirement shall, notwithstanding anything elsewhere contained in this Act, in the application of that provision to and in respect of such mine worker, be construed as a reference to the date upon which he so retires or is retired.

(2) The regulations made under the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, as amended by subsequent Acts, and published in Gazette No. 33 of the twenty-sixth day of February, one thousand nine hundred and fifty-four, are amended by omitting paragraph (b) of regulation two.

Amendment
of regula-
tions made
under Act
No. 45,
1941.

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

(b) The amendment made by paragraph (c) of subsection one of this section shall be deemed to have commenced on the first day of March, one thousand nine hundred and fifty-three.

(c) The amendment made by paragraph (d) of subsection one of this section shall be deemed to have commenced on the seventeenth day of December, one thousand nine hundred and fifty.

(d) The amendment made by subsection two of this section shall be deemed to have commenced on the twenty-sixth day of February, one thousand nine hundred and fifty-four.

3. (1) The Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, as amended by subsequent Acts, is further amended—

Further
amendment
of Act
No. 45,
1941.

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

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

(12) (a) The amount of pension per week payable to any mine worker who has, before the twenty-fourth day of October, one thousand

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nine hundred and fifty-seven, been awarded a pension pursuant to subsection one, (1A), two or three of this section, shall as on and from such date and notwithstanding anything contained in this section be five pounds ten shillings.

(b) The amount of pension per week payable to any mine worker who, on or after the twenty-fourth day of October, one thousand nine hundred and fifty-seven, 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 five pounds ten shillings.

Sec. 7.
(Pension—
permanent
incapacity.)

(b) by omitting from subsections one and (1A) of section seven the words “five pounds two shillings and sixpence” and by inserting in lieu thereof the words “five pounds ten shillings”;

Sec. 8.
(Hard luck
cases.)

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

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

(d) by omitting from subsection one of section nine the words “four pounds seven shillings and sixpence” wherever occurring and by inserting in lieu thereof the words “four pounds fifteen shillings”;

Sec. 10.
(Pension
payable to
dependants.)

(e) by omitting from subsections one and (1c) of section ten the words “four pounds twelve shillings and sixpence” and by inserting in lieu thereof the words “five pounds”;

Sec. 10A.
(De facto
wife.)

(f) by omitting from subsection three of section 10A the words “four pounds twelve shillings and sixpence” and by inserting in lieu thereof the words “five pounds”.

(2)

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(2) (a) The amendments made by paragraph (b), paragraph (c) and paragraph (d) of subsection one of this section shall be deemed to extend to and from the twenty-fourth day of October, one thousand nine hundred and fifty-seven, apply in respect of all mine workers who were immediately before such date in receipt of a pension pursuant to section seven or eight or an addition to a pension pursuant to section nine of the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, as amended by subsequent Acts, as well as to mine workers becoming eligible for any such pension or addition thereto after such date.

(b) The amendments made by paragraph (e) and paragraph (f) of subsection one of this section shall be deemed to extend to and from the commencement of such amendments 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 (Superannuation) Act, 1941, as amended by subsequent Acts, as well as to persons becoming eligible for any such pension after such commencement.

(3) (a) The amendments made by paragraphs (a), (b), (c) and (d) of subsection one of this section shall be deemed to have commenced on the twenty-fourth day of October, one thousand nine hundred and fifty-seven.

(b) The amendments made by paragraph (e) and by paragraph (f) of subsection one of this section shall—

(i) in the case of a widow who was entitled to a widow's pension under any legislation of the Commonwealth relating to Social Services on the fifteenth day of October, one thousand nine hundred and fifty-seven, be deemed to have commenced upon the said day;

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(ii)

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(ii) in any other case, be deemed to have commenced upon the twenty-fourth day of October, one thousand nine hundred and fifty-seven,

and a reference in paragraph (b) of subsection two of this section to the commencement of such amendments shall be construed accordingly.

Variation
of
estimates.

4. (1) The estimate made by the Superannuation Tribunal constituted under the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, as amended by subsequent Acts, in accordance with section nineteen of that Act, as so amended, of the amount required by the Coal and Oil Shale Mine Workers Superannuation Fund for the period of twelve months commencing on the first day of July, one thousand nine hundred and fifty-seven, shall be deemed to be varied to the extent necessary to include the amount required for payment of pensions increased or other sums payable out of such Fund 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, as amended by subsequent Acts and by this Act, be deemed to be the estimate of the amount required by 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.

(2) The estimate made by the Superannuation Tribunal constituted under the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, as amended by subsequent Acts, in accordance with section 19D of that Act, as so amended, of the amount required by the Coal and Oil Shale Mine Workers Compensation Subsidy Fund for the period of twelve months commencing on the first day of July, one thousand nine hundred and fifty-seven, shall be deemed to be varied to the extent necessary to include the amount required for payment of subsidy increased or other sums payable out of such Fund by virtue of the operation of this Act and the estimate

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estimate as so varied shall for all purposes of the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, as amended by subsequent Acts and by this Act, be deemed to be the estimate of the amount required by such Fund for the aforesaid period of twelve months for payment of subsidy and other sums chargeable upon or payable out of that Fund and for the provision of a reserve in connection with that Fund.

5. (1) The Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, as amended by subsequent Acts, is further amended—

Further
amendment
of Act
No. 45,
1941.

- (a) (i) by omitting from subsection one of section thirteen the words “or any pension payable under the Superannuation Act, 1916-1948,”; (Sec. 13. Deductions from pensions.)
- (ii) by omitting from the same subsection the words “or any pension payable under the Superannuation Act, 1916-1952,”;
- (b) (i) by omitting paragraph (b) of subsection six of section eighteen; (Sec. 18. (The Fund.)
- (ii) by inserting at the end of the same section the following new subsection:—

(7) For the purposes of this section the Tribunal is hereby declared to be a body corporate under the name of the “Coal and Oil Shale Mine Workers’ Superannuation Tribunal”.

The said body corporate shall have perpetual succession and a common seal and may in the corporate name sue and be sued and shall be capable of purchasing, holding, granting, demising, disposing of and alienating real and personal property and of doing and suffering all such other acts and things as a body corporate may by law do and suffer.

(2)

Crown Employees Appeal Board (Amendment) Act.**No. 54, 1957.**

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

(b) The amendment made by subparagraph (ii) of paragraph (a) of subsection one of this section shall be deemed to have commenced on the fourth day of December, one thousand nine hundred and fifty-two.

(c) The amendments made by paragraph (b) of subsection one of this section shall not prejudice or affect the continuity of the body corporate constituted under paragraph (b) of subsection six of section eighteen of the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, as amended by subsequent Acts, but the same shall continue notwithstanding such amendments.
