

**COAL AND OIL SHALE MINE WORKERS
(SUPERANNUATION) AMENDMENT ACT, 1983, No. 150**

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 150, 1983.

An Act to amend the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, with respect to the investment of the Funds established under that Act, the entitlement of a mine worker to benefits under that Act after a period of imprisonment and penalties for offences under that Act; and for other purposes. [Assented to, 23rd December, 1983.]

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

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.

1. This Act may be cited as the "Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1983".

Commencement.

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Section 5, in its application to Schedule 2 (8), and Schedule 2 (8) shall commence on 1st July, 1984.

Principal Act.

3. The Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO INVESTMENT POWERS.

SCHEDULE 2.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

Amendment of Act No. 45, 1941.

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

Amendment of Act No. 69, 1982.

6. The Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment Act, 1982, is amended by omitting item (2) (b) from the matter in Schedule 2 relating to the Principal Act.

Transitional.

7. (1) A reference in any other Act, in any instrument made under any Act or in any other instrument of any kind (enacted, made or executed before the date of assent to this Act) to the Superannuation Tribunal constituted by the Principal Act, as in force before the date of assent to this Act, shall be read and construed as a reference to the Coal and Oil Shale Mine Workers' Superannuation Tribunal constituted by the Principal Act, as amended by this Act.

(2) The Coal and Oil Shale Mine Workers' Superannuation Tribunal constituted by the Principal Act, as amended by this Act, is a continuation of, and the same legal entity as, the Superannuation Tribunal constituted by the Principal Act, as in force before the date of assent to this Act.

(3) A person who, immediately before the date of assent to this Act, held office as a member of the Superannuation Tribunal constituted by the Principal Act, as in force before that date—

- (a) shall be deemed to have been duly appointed on that date as a member of the Coal and Oil Shale Mine Workers' Superannuation Tribunal constituted by the Principal Act, as amended by this Act;
 - (b) shall be deemed to have been so appointed—
 - (i) upon the same terms and conditions as those applicable to the person immediately before that date; and
 - (ii) for the residue of the term of office for which the person was appointed as a member of the Superannuation Tribunal so constituted; and
 - (c) is eligible (if otherwise qualified) for re-appointment as a member of the Coal and Oil Shale Mine Workers' Superannuation Tribunal so constituted.
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Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO
INVESTMENT POWERS.

(1) Section 1 (2)—

After the matter relating to Part IVB, insert:—

PART IVC.—INVESTMENT OF SUPERANNUATION AND SUBSIDY
FUNDS—ss. 19N–19T.

(2) (a) Section 18 (5)—

Omit the subsection.

(b) Section 18 (6) (a), (6A) (a)—

Omit “Notwithstanding the provisions of subsection (5)”
wherever occurring, insert instead “Without limiting the
generality of section 19O,”.

(3) Section 19C (5)—

Omit the subsection.

(4) Part IVC—

After Part IVB, insert:—

PART IVC.

INVESTMENT OF SUPERANNUATION AND SUBSIDY FUNDS.

Interpretation.

19N. (1) In this Part—

“Fund” means the Coal and Oil Shale Mine Workers Superannua-
tion Fund or the Coal and Oil Shale Mine Workers
Compensation Subsidy Fund;

“public security” means a public security within the meaning of the
Income Tax Assessment Act 1936 of the Commonwealth.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO INVESTMENT
POWERS—*continued.*

(2) A reference in this Part to an investment in a corporation includes a reference to an investment in either or both of the following:—

- (a) shares of the corporation;
- (b) debt securities (as defined in section 5A of the Superannuation Act, 1916) of the corporation.

(3) A reference in this Part to an investment in a trust includes a reference to an investment in an interest as a beneficiary under the trust.

Investment of Fund.

19o. (1) Subject to this Part, money in a Fund which is not immediately required for the purposes of the Fund may be invested by the Tribunal in such manner as the Tribunal may, in its absolute discretion, determine from time to time.

(2) Any interest from time to time accruing from any investment made as referred to in subsection (1) shall be paid into—

- (a) where money from both Funds was contributed for the purpose of the investment—each of the Funds in the same proportion as money was contributed from the Funds; or
- (b) in any other case—the Fund from which money was contributed for the purpose of the investment.

Relationship between powers of Tribunal and powers of trustees.

19p. (1) To the extent (if any) to which, but for this subsection, the Tribunal would not have in relation to a Fund the powers that it would have if it were a trustee of the Fund, it has those powers.

(2) To the extent (if any) to which, but for this subsection, the powers conferred by this Act on the Tribunal in relation to a Fund would be restricted by the Trustee Act, 1925, or any other law relating to trusts or trustees, those powers are not so restricted.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO INVESTMENT
POWERS—*continued.*

(3) Nothing in this section—

- (a) constitutes the Tribunal as a trustee of a Fund; or
- (b) implies that the Tribunal is a trustee of a Fund.

30 per cent of assets to be in public securities.

19Q. The Tribunal shall, so far as is practicable, ensure that at all times the assets of a Fund shall include public securities the cost of which was not less than 30 per cent of the cost of all the assets of the Fund.

Not more than 5 per cent of Fund to be invested in particular asset.

19R. (1) The Tribunal shall, so far as is practicable, ensure that at no time do the assets of a Fund include any one particular asset (other than a public security or an asset held in accordance with section 18 (6) or (6A)) the cost of which was more than 5 per cent of the cost of all the assets of the Fund.

(2) Without limiting the generality of subsection (1), for the purposes of that subsection, all the assets of a Fund comprising investments in—

- (a) one particular corporation;
- (b) one particular trust; or
- (c) related corporations (within the meaning of the Companies (New South Wales) Code),

shall be deemed to be one particular asset of the Fund.

Disclosure of investment exceeding 10 per cent of assets of corporation, etc.

19s. Where it appears to the Tribunal that the value of investments made by the Tribunal in any corporation, trust or other body at any time exceeds or has exceeded 10 per cent of the value of the assets of the corporation, trust or other body at that time, the Tribunal shall, as soon as practicable, disclose that fact in its annual report to the Minister.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO INVESTMENT
POWERS—*continued.*

Appointment of independent investment manager.

19T. (1) The Tribunal may enter into an agreement with a company approved by the Governor—

- (a) for or with respect to the exercise or performance of such of the Tribunal's powers, authorities, duties and functions relating to the investment of a Fund as are specified in the agreement; and
- (b) for the purposes of paragraph (a), for or with respect to any one or more of the following:—
 - (i) the management of the Fund;
 - (ii) the payment to the company of assets of the Fund;
 - (iii) the exercise or performance by the company of any of the powers, authorities, duties and functions of the Tribunal that are specified in the agreement.

(2) The Tribunal shall not enter into any agreement under subsection (1) unless the terms and conditions of the agreement have been approved by the Governor.

(3) A company which has entered into an agreement as referred to in subsection (1), while acting pursuant to the agreement, shall have and may exercise and perform the powers, authorities, duties and functions of the Tribunal conferred or imposed on the company by the agreement.

(4) All amounts received by the Tribunal pursuant to an agreement under subsection (1) in respect of a Fund shall form part of the Fund.

(5) A Fund may be applied by the Tribunal to the payment of all amounts payable by the Tribunal pursuant to an agreement under subsection (1) in respect of the Fund.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 2.

(Sec. 5.)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 2 (1), definition of "Owner"—

Omit the definition, insert instead:—

"Owner" means any person who is the immediate proprietor, the lessee or the occupier of a coal or oil shale mine, and includes—

- (a) where a coal or oil shale mine is being worked by a person who is an official liquidator, receiver, manager or other person authorised by law to carry on the business of working the mine—that person;
- (b) where a coal or oil shale mine belongs to, or is held in trust for, the Crown, a department of the Government or a statutory authority—the Crown, the department or the statutory authority, as the case may be; and
- (c) where a coal or oil shale mine is being worked by a contractor—in addition to any other person, the contractor,

but, except as provided by subsection (7), does not include a person who merely receives a royalty, rent or fine from a coal or oil shale mine or is merely holding the property on or in which a coal or oil shale mine is situated subject to any lease, grant or licence to, or contract with, another person for the working of the coal or oil shale mine.

(b) Section 2 (1), definition of "Tribunal" —

Omit the definition, insert instead:—

"Tribunal" means the Coal and Oil Shale Mine Workers' Superannuation Tribunal constituted by this Act.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 2 (7)—

After section 2 (6), insert:—

(7) For the purposes of sections 19 and 19D, where a mine worker, not being a mine worker referred to in paragraph (f) or (h) of the definition of “Mine worker” in subsection (1), is employed by a person who is not an owner as defined in subsection (1), a reference to an owner includes a reference to the employer of the person.

(2) (a) Section 3A (1) (a)—

Omit “his ill health”, insert instead “ill health or imprisonment (including penal servitude) of the mine worker”.

(b) Section 3A (2)—

Omit “period ending after 25th March, 1978”, insert instead “period referred to in subsection (6) ending after 25th March, 1978, or a period referred to in subsection (7) ending after the date of assent to the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1983”.

(c) Section 3A (6)—

Omit “a mine worker”, insert instead “a period during which a mine worker has not been engaged in the coal or oil shale mining industries because the engagement of the mine worker in the industries has been terminated by reason of retrenchment or cavit out or act of God (including fire or flood) or by reason of ill health of the mine worker”.

(d) Section 3A (7)—

After section 3A (6), insert:—

(7) The Tribunal may not make a declaration under subsection (1) in relation to a period during which a mine worker has not been engaged in the coal or oil shale mining industries

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

because the engagement of the mine worker in the industries has been terminated by reason of imprisonment (including penal servitude) of the mine worker unless—

- (a) the mine worker has, apart from this section, been engaged in the coal or oil shale mining industries after 25th March, 1978;
- (b) the mine worker had not died before 28th January, 1983; and
- (c) the mine worker had not attained the age at which the mine worker is obliged to retire under this Act before 28th January, 1983.

(3) (a) Section 15 (1), (1A), (1B)—

Omit section 15 (1), insert instead:—

(1) There is hereby constituted a corporation under the corporate name of the “Coal and Oil Shale Mine Workers’ Superannuation Tribunal”.

(1A) Section 38 of the Interpretation Act, 1897, applies to and in respect of the Tribunal as if the Tribunal were constituted by an Act passed after the commencement of the Interpretation (Amendment) Act, 1969.

(1B) The Tribunal shall exercise and discharge the powers, authorities, duties and functions conferred and imposed on the Tribunal by and under this or any other Act.

(b) Section 15 (9) (c)—

After “incompetence”, insert “or, without affecting the generality of the foregoing, for a contravention of section 15A”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) Section 15A—

After section 15, insert:—

Disclosure of pecuniary interests.

15A. (1) A member of the Tribunal who has a direct or indirect pecuniary interest in a matter that is being considered, or is about to be considered, at a meeting of the Tribunal shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Tribunal.

(2) A disclosure by a member of the Tribunal at a meeting of the Tribunal that the member—

- (a) is a member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person;
or
- (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The Tribunal shall cause particulars of any disclosure made under subsection (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Tribunal from time to time.

(4) After a member of the Tribunal has, or is deemed to have, disclosed the nature of an interest in any matter pursuant to subsection (1) or (2), the member shall not, unless the Minister otherwise determines, be present during any deliberation of the Tribunal, or take part in any decision of the Tribunal, with respect to that matter.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(5) Notwithstanding that a member of the Tribunal contravenes the provisions of this section, that contravention does not invalidate any decision of the Tribunal.

(6) Nothing in this section applies to or in respect of an interest of a member of the Tribunal in a matter which arises by reason only that the member is a mine worker or an owner.

(7) A reference in this section to a meeting of the Tribunal includes a reference to a meeting of a committee of the Tribunal.

(5) Section 17 (3)—

Omit “one hundred dollars”, insert instead “\$500”.

(6) Section 18 (7)—

Omit the subsection.

(7) Section 27 (3A), (3B), (3C)—

After section 27 (3), insert:—

(3A) The actuary appointed to make an investigation referred to in subsection (1) shall, in respect of the first investigation after the date of assent to the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1983, and in respect of any succeeding investigation, complete the investigation and report the result of the investigation to the Tribunal as soon as practicable, but not later than 13 months, after the date as at which the investigation was made.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3B) The Tribunal shall, not later than 2 months after it receives a report of the result of an investigation referred to in subsection (1), forward the report to the Minister with such comments thereon as it thinks fit.

(3C) Where the Minister considers that the circumstances relating to any particular investigation so warrant it, the Minister may authorise an extension of the time within which an investigation is required to be completed, or a report is required to be made, under subsection (3A) or a report is required to be forwarded to the Minister with comments under subsection (3B) to such date as the Minister may determine and any such authorisation shall have effect according to its tenor.

(8) Section 27A—

After section 27, insert:—

Annual report.

27A. (1) As soon as practicable after 30th June, but on or before 31st December, in each year, the Tribunal shall prepare and forward to the Minister a report of its work and activities for the 12 months ending on 30th June in that year.

(2) The Minister shall lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

(9) Section 29 (1)—

Omit “two hundred dollars”, insert instead “\$500”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(10) Section 32 (3)—

Omit the subsection, insert instead:—

(3) A regulation may impose a penalty not exceeding \$500 for an offence against the regulation and, in the case of a regulation made as referred to in section 2J (13), may, in respect of a continuing offence, impose a further penalty not exceeding \$500 for each day the offence continues.
