

COAL AND OIL SHALE MINE WORKERS (PENSIONS) BILL.

*Schedule of the Amendments referred to in Message of 1st October, 1941.*

No. 1.—Page 11, clause 5. *After line 32 insert—*

**“(5) It shall be a sufficient defence to a charge that a person has taken into or retained in his employment as a mine worker any person who is of or above the age of sixty years if the person charged proves that the age of the person so employed, as disclosed by the particulars furnished pursuant to regulations made in that behalf, was, at the relevant date, less than sixty years.”**

No. 2.—Page 17, clause 10, line 19. *Omit “subsection three of”*

No. 3.—Page 17, clause 10, line 24. *After “1926-1938” insert “or damages received or recovered independently of that Act in respect of the death of the mine worker.”*

No. 4.—Page 19, clause 10. *After line 3 insert—*

**“Nothing in this paragraph shall be construed as disqualifying the dependants or any of them from receiving a pension by reason only of the fact that proceedings in respect of the death of the mine worker have been taken independently of the Workers’ Compensation Act, 1926-1938.**

**(4) Where, either before or after the commencement of this Part—**

**(a) the mine worker upon whose death the dependant is eligible for a pension under subsection one of this section has, in his lifetime, received or recovered damages from his employer independently of the Workers’ Compensation Act, 1926-1938, in respect of the injury; or**

**(b) the dependant has received or recovered or receives or recovers damages independently of that Act in respect of the death of the mine worker—**

**the disqualification under subsection two of this section shall have effect until the expiration of a period to be determined in accordance with regulations made in that behalf.**

**Such regulations shall, as far as practicable, apply to and in respect of such damages the like principles as under subsection three of this section are applicable to and in respect of compensation.**

**Without prejudice to the generality of the power to make regulations, the regulations made in relation to the matters referred to in this subsection may prescribe conditions subject to which such principles shall be so applied and may provide that part only of the amount of such damages is to be taken into account for the purposes of such regulations and in such case shall prescribe such part or the manner of ascertaining the same.”**

No. 5.—Page 20, clause 12, line 26. *After “1926-1938” insert “or damages received or recovered independently of that Act in respect of an injury arising out of and in the course of his employment as a mine worker.”*

No. 6.—Page 21, clause 12. *After line 26 insert—*

**“Nothing in this paragraph shall be construed as disqualifying the mine worker from receiving a pension by reason only of the fact that proceedings in respect of an injury arising out of and in the course of his employment as a mine worker have been taken independently of the Workers’ Compensation Act, 1926-1938.**

**(3) Where, either before or after the commencement of this Part, a mine worker who becomes eligible for a pension under section seven of this Act has received or recovered or receives or recovers damages from his employer independently of the Workers’ Compensation Act, 1926-1938, in respect of the injury the disqualification under subsection one of this section shall have effect until the expiration of a period to be determined in accordance with regulations made in that behalf.**

Such regulations shall, as far as practicable, apply to and in respect of such damages the like principles as, under subsection two of this section, are applicable to and in respect of compensation.

Without prejudice to the generality of the power to make regulations, the regulations made in relation to the matters referred to in this subsection may prescribe conditions subject to which such principles shall be so applied and may provide that part only of the amount of such damages is to be taken into account for the purposes of such regulations, and in such case shall prescribe such part or the manner of ascertaining the same.”

No. 7.—Page 31, clause 19, line 2. *After “may” insert “notwithstanding the provisions of the Truck Act, 1900, or of section ninety-two of the Industrial Arbitration Act, 1940”*,

No. 8.—Page 36, clause 32. *After line 16 insert—*

**“(f) require any person to whom a pension is payable under this Act, to make full and complete disclosure to the Tribunal in relation to any amounts which, by this Act, are directed to be deducted from the pension so payable, and to make such disclosure in such manner and at such times as the Tribunal may direct either generally or in any particular case or class of cases.”**

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

W. R. McCOURT,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 3 September, 1941.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

W. K. CHARLTON,  
*Clerk of the Parliamēnts.*  
*Legislative Council Chamber,*  
*Sydney, 1st October, 1941.*

## New South Wales.



ANNO QUINTO

# GEORGII VI REGIS.

\*\*\*\*\*

Act No. , 1941.

An Act to prohibit the employment and the continuance in employment in the coal or oil shale mining industries, and in certain callings related thereto, of certain persons of or above the age of sixty years; to make provision for and with respect to the payment of pensions to such persons and certain other persons; to amend the Widows' Pensions Act, 1925-1937, and certain other Acts; and for purposes connected therewith.

**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:—

5

### PART I.

#### PRELIMINARY.

**1.** (1) This Act may be cited as the "Coal and Oil Shale Mine Workers (Pensions) Act, 1941."

75041

2—A

(2)

Short title,  
commencement  
and construc-  
tion.

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY—ss. 1-4.

PART II.—COMPULSORY RETIREMENT AND PENSIONS—  
ss. 5-14.

5 PART III.—THE TRIBUNAL—ss. 15-17.

PART IV.—FUNDS AND CONTRIBUTIONS—ss. 18, 19.

PART V.—MISCELLANEOUS—ss. 20-32.

(3) (a) Parts I and V of this Act shall commence  
on the day upon which the assent of His Majesty to this  
10 Act is signified.

(b) Parts II, III and IV of this Act shall com-  
mence upon such day or days as may be appointed by the  
Governor and notified by proclamation published in the  
Gazette.

15 A different day may be so appointed and notified in  
respect of any of such Parts.

(4) This Act shall be read and construed subject  
to the Commonwealth of Australia Constitution Act and  
so as not to exceed the legislative power of the State to  
20 the intent that where any provision of this Act or of the  
regulations or the application thereof to any person or  
circumstance is held invalid, the remainder of this Act  
or of such regulations and the application of such pro-  
vision to other persons or circumstances shall not be  
25 affected.

(5) This Act shall be read and construed with the  
Coal Mines Regulation Act, 1912, as amended by subse-  
quent Acts.

2. (1) In this Act, unless the context or subject-matter  
30 otherwise indicates or requires,—

“Injury” has the meaning given to that expression  
in the Workers’ Compensation Act, 1926, as  
amended by subsequent Acts.

“Mine worker” means—

35 (a) a person who is employed (whether  
underground or above ground) in or  
about a coal or oil shale mine in New  
South Wales by the owner of the mine;

(b)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- 5 (b) a person who was, at any time after the first day of January, one thousand nine hundred and twenty-eight, engaged in the coal or oil shale mining industries in New South Wales;
- 10 (c) a person who has, at any time after the first day of February, one thousand nine hundred and thirty, and before the commencement of this Act, become permanently incapacitated by injury arising out of and in the course of his employment (whether underground or above ground) in or about a coal or oil shale mine in New South Wales;
- 15 (d) a person (including a permit manager) working (whether underground or above ground) in or about a small mine in New South Wales;
- 20 (e) 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, is principally engaged in the transport of coal or oil shale from the mine to the point of delivery by the owner; and for the purposes of this paragraph "point of delivery" means the place at which coal or oil shale is delivered by the owner of the mine to any railway of the Commissioner for Railways, or to the South Maitland Railway, or to any wharf or other place appointed for the purpose, and includes, in any case where process works are carried on by the owner of the mine, the place at which coal or oil shale is delivered at such works;
- 25  
30  
35
- (f) a check-weigher or district check inspector;
- (g)

*Coal and Oil Shale Mine Workers (Pensions).*

- (g) a member of a permanent rescue corps established at a central rescue station pursuant to the Mines Rescue Act, 1925;
- 5 (h) an elected official of an industrial or trade union of employees, or of an association of employees registered as an organisation under the Commonwealth Conciliation and Arbitration Act 1904-1934 of the Parliament of the Commonwealth, of which union or organisation the membership is principally confined to persons falling within any one or more of the classes referred to in paragraphs (a) to (g) of this definition:
- 10
- 15

Provided that (subject to subsection four of this section) the expression "mine worker" shall not include—

- 20 (i) a superintendent, manager, or under manager;
- (ii) the official known as the colliery engineer and the official appointed as mine electrician pursuant to section twenty-two of the Coal Mines Regulation Act, 1912, as amended by subsequent Acts;
- 25 (iii) a person engaged in clerical work in connection with a coal or oil shale mine;
- 30 (iv) a person (other than a person of the class referred to in paragraph (e) of this definition) employed in or in connection with the oil shale industry whose work does not relate to the mining of oil shale;
- 35 (v) a coke worker;
- (vi) a superintendent or an instructor appointed pursuant to the Mines Rescue Act, 1925.

40 "Owner" has the meaning given to that expression in the Coal Mines Regulation Act, 1912, as amended by subsequent Acts.

"Pension"

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

“Pension” means a pension payable under this Act and includes any amounts payable as an addition to a pension.

5 “Prescribed” means prescribed by this Act or the regulations.

“Regulations” means regulations made under this Act.

“Tribunal” means the Pensions Tribunal constituted under this Act.

10 (2) A person shall, for the purposes of this Act, be deemed to be “engaged in the coal or oil shale mining industries”—

(a) for any period (whether before or after the commencement of Part II of this Act) during  
15 which he is employed as a mine worker;

(b) for any period (whether before or after the commencement of Part II of this Act) during which he is unemployed, if, immediately before the date upon which he so became unemployed—

20 (i) he was employed (whether underground or above ground) in or about a coal or oil shale mine in New South Wales by the owner of the mine; or

25 (ii) he was a member of a permanent rescue corps established at a central rescue station pursuant to the Mines Rescue Act, 1925:

30 Provided that a person shall not be deemed to be “engaged in the coal or oil shale mining industries” by reason of the operation of paragraph (b) of this subsection unless he satisfies the Tribunal that his employment was terminated otherwise than for misconduct and that his failure to obtain other employment was  
35 through no fault on his part:

40 Provided further that the period for which any such person is unemployed shall be deemed not to be interrupted by periods during which he is employed upon relief work or upon other work of a casual nature.

(3)

*Coal and Oil Shale Mine Workers (Pensions).*

(3) A reference in any provision of this Act to the "date of retirement" shall, in the application of that provision to or in respect of any particular mine worker, be construed as a reference to the date on and after  
 5 which the employment of that mine worker as a mine worker would be an offence under section five of this Act.

(4) (a) The Governor may, by proclamation published in the Gazette, extend the definition of "mine  
 10 worker" to include any one or more of the classes of persons referred to in the proviso to that definition.

Any such proclamation shall take effect as from the date of the publication thereof in the Gazette or from a later date to be specified in the proclamation.

15 As from the date upon which any such proclamation takes effect the provisions of this Act shall (subject to any modification which may be made pursuant to paragraph (b) of this subsection) apply to and in respect of persons who are members of the class to which the  
 20 proclamation relates.

(b) In any proclamation published pursuant to paragraph (a) of this subsection the Governor may, if he thinks fit, specify an age (being later than the age of sixty years) which shall be the retiring age of persons  
 25 who are members of the class to which the proclamation relates.

Where a retiring age is so specified the provisions of this Act, in their application to and in respect of persons who are members of such class, shall be deemed to be  
 30 modified to the extent following, that is to say—section five of this Act shall have and take effect as if the age specified in the proclamation were substituted for the age of sixty years referred to therein, and references in this Act to the "date of retirement" shall be construed  
 35 accordingly.

3. (1) Any mine worker who is absent from New South Wales or from his employment upon war service, as defined in the Defence Act 1903, as amended by subsequent Acts, of the Parliament of the Commonwealth or  
 40 upon any kind of work or service in connection with any war in which Australia is, for the time being, engaged, shall

Special provisions as to calculation of periods of employment.



---

*Coal and Oil Shale Mine Workers (Pensions).*

---

shall be deemed to have been continuously resident in New South Wales and to have been employed in or about a coal or oil shale mine, as the case may be, during the period of such absence.

5 (2) Any mine worker who is lawfully absent from work on an award holiday or on annual leave or through sickness or accident not due to his own fault shall be deemed to have actually worked in or about a coal or oil shale mine, as the case may be, during the period of such  
10 absence.

(3) Continuous residence in New South Wales shall be deemed not to have been interrupted by occasional absences not exceeding in the aggregate one-tenth of the total period of residence, and for the purposes of this  
15 Act, the period of any such absence shall be counted as a period of residence in New South Wales.

(4) Any elected official of an industrial or trade union of employees or of an association of employees registered as an organisation under the Commonwealth  
20 Conciliation and Arbitration Act 1904-1934 shall, for the purposes of this Act, be deemed to have actually worked in or about a coal or oil shale mine in New South Wales or in Australia, as the case may be, for the whole of the period during which he held office as such elected official.

25 (5) Any member of a permanent rescue corps established at a central rescue station shall, for the purposes of this Act, be deemed to have actually worked in or about a coal or oil shale mine in New South Wales for the whole of the period during which he was such a  
30 member.

(6) For the purposes of this Act the work of persons of the classes referred to in paragraphs (e) and (f) of the definition of "mine worker" shall be deemed to be work in or about a coal or oil shale mine.

35 4. (1) Where the Governor is satisfied—  
(a) that there is in force in any other State of the Commonwealth of Australia legislation providing for the payment of pensions to mine workers and their dependants, and that such  
pensions

Reciprocat-  
ing States.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

pensions are of the like amount and are awarded on the like conditions as the pensions for which provision is made in this Act; and

- 5 (b) that an agreement with such other State has been entered into under subsection two of this section,

he may, by proclamation published in the Gazette, declare such other State to be a reciprocating State for the purposes of this Act.

- 10 (2) The Minister may, for and on behalf of this State, enter into an agreement with a Minister of the Crown for such other State acting for and on behalf of such other State, with respect to all or any of the following matters:—

- 15 (a) the circumstances in which and the conditions subject to which the Tribunal will, for the purposes of this Act, regard any person who is or has been a mine worker in or is or has been engaged in the coal or oil shale
- 20 mining industries of such other State, as a person who is or has been a mine worker in or is or has been engaged in the coal or oil shale mining industries of New South Wales;

- 25 (b) the circumstances in which and the conditions subject to which the Tribunal may accept and act upon a certificate furnished by the Minister of the Crown for such other State or by any specified officer of such other State that
- 30 any person is or has been a mine worker in or is or has been engaged in the coal or oil shale mining industries of such other State, and the period or periods during which he has been such a worker or has been so engaged;

- 35 (c) the circumstances in which and the conditions subject to which the funds established under this Act or either of them shall be liable for the payment of the whole or any part of any pension awarded to a person of the class referred to in paragraph (a) of this subsection;

(d)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- 5 (d) the circumstances in which and the conditions subject to which payment may be made from the funds established under this Act, or either of them, to the corresponding funds or fund established under the legislation of such other State;
- 10 (e) the making of such provision as may be necessary to ensure that a mine worker or his dependants shall not become entitled to payment of a pension under this Act as well as under the legislation of such other State;
- (f) any adjustments which may be necessary if the proclamation declaring such other State to be a reciprocating State is revoked;
- 15 (g) any other matter arising under this Act which the Minister may consider necessary or convenient to be included in the agreement.

No agreement entered into under this subsection shall have any force or effect until the proclamation referred to in subsection one of this section has been published.

- 20 (3) The Governor may, if he thinks fit, by proclamation published in the Gazette, revoke any proclamation under subsection one of this section.

Where a proclamation is so revoked the agreement entered into under subsection two of this section shall  
25 lapse except to the extent to which it relates to the matters referred to in paragraph (f) of that subsection.

- 30 (4) Where a proclamation declaring any other State of the Commonwealth of Australia to be a reciprocating State has been published and is still in force the provisions of this Act shall be deemed to be modified to the extent necessary to enable the agreement entered into under subsection two of this section with such other State to be carried into effect.

*Coal and Oil Shale Mine Workers (Pensions).*

## PART II.

## COMPULSORY RETIREMENT AND PENSIONS.

5. (1) Subject to this section no person shall take into or retain in his employment as a mine worker any person who is of or above the age of sixty years and no person of or above the age of sixty years shall accept or continue in employment as a mine worker.

Employment  
after 60  
years of age  
prohibited.

(2) (a) Every mine worker who is, at the commencement of this Part, employed as a mine worker, and who is, at such commencement, of or above the age of sixty years, shall be retired from and shall vacate his employment as a mine worker upon the expiration of the period of three months after such commencement.

(b) Every mine worker who is, at any time after the commencement of this Part, employed as a mine worker and who, whilst so employed, attains the age of sixty years, shall be retired from and shall vacate his employment as a mine worker immediately upon attaining that age:

Provided that any such mine worker who attains the age of sixty years at any time within the period of three months after the commencement of this Part shall be retired from and shall vacate his employment as a mine worker upon the expiration of that period.

(c) A person of or above the age of sixty years who is not, at the commencement of this Part, employed as a mine worker, shall not, at any time after such commencement, be employed as a mine worker.

(3) Any person who neglects or fails to comply with any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding fifty pounds and to a further penalty not exceeding five pounds for every day during which the offence continues.

(4) (a) The Tribunal may, from time to time, upon special cause being shown, suspend the operation of subsections one and two of this section in their application to and in respect of any specified employment of a specified mine worker.

Any

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

Any such suspension may be made subject to such conditions (if any) as the Tribunal may impose.

Any such suspension shall be evidenced by a certificate of exemption which shall be issued by the Tribunal and shall specify the employment in respect of which the operation of those subsections is suspended, the mine worker to whom the certificate relates, the period for which the certificate is to remain in force, and the conditions (if any) subject to which the operation of those subsections is suspended.

(b) The Tribunal may, from time to time, suspend the operation of subsections one and two of this section in their application to and in respect of the employment in or about any specified mine of all mine workers, or of any specified class of mine workers or of all mine workers other than those of a specified class.

Any such suspension may be made subject to such conditions (if any) as the Tribunal may impose.

Any such suspension shall be evidenced by a certificate of exemption which shall be issued by the Tribunal and shall specify the mine to which the certificate relates and shall indicate whether the certificate relates to the employment of all mine workers or of a specified class of mine workers or of all mine workers other than those of a specified class. The certificate shall also specify the period for which the same is to remain in force, and the conditions (if any) subject to which the operation of those subsections is suspended.

(c) The employment of a mine worker after the date of retirement shall not, where such employment is under and in accordance with a certificate issued under this subsection, constitute an offence.

**(5) It shall be a sufficient defence to a charge that a person has taken into or retained in his employment as a mine worker any person who is of or above the age of sixty years if the person charged proves that the age of the person so employed, as disclosed by the particulars furnished pursuant to regulations made in that behalf, was, at the relevant date, less than sixty years.**

*Coal and Oil Shale Mine Workers (Pensions).*

6. (1) Any mine worker who is employed as a mine worker at the commencement of this Part or at the date upon which he attains the age of sixty years, whichever is the later, or who though not so employed had, during the twelve months immediately preceding the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, actually worked as a mine worker for not less than sixty days in all during the said period of twelve months, shall be eligible, as from the date of retirement, to a pension of two pounds per week if he establishes to the satisfaction of the Tribunal that—
- Pensions—  
mine  
workers who  
are retired.
- (a) he has been continuously resident in New South Wales during the five years immediately preceding the date of retirement, and
- (i) he has actually worked in or about a coal or oil shale mine in New South Wales for not less than three hundred days during the said period of five years; or
- (ii) before the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, he has been engaged in the coal or oil shale mining industries in New South Wales for a period of not less than twenty years in all; or
- (b) he has been resident in New South Wales for not less than five years out of the seven years immediately preceding the date of retirement; and
- (i) he has actually worked in or about a coal or oil shale mine in Australia for not less than five hundred days during such period of seven years; or
- (ii) before the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, he has been engaged in the coal  
or

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

or oil shale mining industries in New South Wales for a period of not less than twenty years in all.

(2) Any mine worker who is, at the commencement  
5 of this Part, of or above the age of sixty years and who  
had, during the twelve months immediately preceding  
such commencement, actually worked as a mine worker  
for not less than sixty days in all, but who is unable to  
satisfy the conditions contained in paragraph (a) or  
10 paragraph (b) of subsection one of this section, shall  
be eligible as from the date of retirement for a pension  
of one pound ten shillings per week:

Provided that the Tribunal shall not award a pension  
under this subsection to any mine worker unless, in its  
15 opinion, the employment of such mine worker was bona  
fide, and was not arranged solely or mainly for the pur-  
pose of enabling such mine worker to become eligible  
for a pension pursuant to this subsection.

(3) Any mine worker who, at the date of retire-  
20 ment, is not eligible, pursuant to subsection one or sub-  
section two of this section, for a pension, shall be eligible,  
as from the date of retirement, for a pension of one  
pound ten shillings per week if he establishes to the  
satisfaction of the Tribunal—

25 (a) that during the ten years immediately preceding  
the commencement of this Part or the date upon  
which he attained the age of sixty years, which-  
ever is the later, he has been engaged in the  
30 coal or oil shale mining industries in New South  
Wales and during such period has actually  
worked in the coal or oil shale mining industries  
in New South Wales for a period of not less  
than six hundred days in all; or

35 (b) that before the commencement of this Part or  
the date upon which he attained the age of sixty  
years, whichever is the later, he has been en-  
gaged in the coal or oil shale mining industries  
in New South Wales for a period of not less  
than twenty years **in all.**

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

7. (1) A mine worker shall, subject to this section, be eligible for a pension of two pounds per week if he proves to the satisfaction of the Tribunal—

Pension—  
permanent  
incapacity.

5 (a) 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 February, one thousand nine hundred and thirty, or arose after such commencement; and

10 (b) that by reason of such incapacity he is unable to continue in employment as a mine worker; and

15 (c) that—  
(i) in any case where the mine worker is of or above the age of sixty years, the incapacity continued until the date of his application for a pension under this section; or

20 (ii) in any case where the mine worker is under the age of sixty years, the incapacity is likely to be permanent:

25 Provided that a mine worker shall not be eligible for a pension under this subsection where the injury giving rise to the incapacity was an intentional self-inflicted injury.

cf. Act No.  
15, 1926, s. 7  
(3) (c).

(2) Where a mine worker is awarded a pension pursuant to subsection one of this section the total amount payable to him as pension (being the amount payable pursuant to that subsection and any amounts payable pursuant to section nine of this Act) shall be reduced by the average weekly amount which he earns or which the Tribunal finds he might reasonably earn from available employment (not being relief work) not inconsistent either in itself or by reason of the conditions under which it is performed with the maintenance of his health in either of the following cases, that is to say—

(a) where the pension is awarded on the ground of partial incapacity; or

(b)



*Coal and Oil Shale Mine Workers (Pensions).*

- 5 (b) where the pension was awarded on the ground of total incapacity and subsequently thereto he has so far recovered as to be fit for employment of the character referred to in the foregoing provisions of this subsection.

8. (1) Notwithstanding anything in this Part the Tribunal may award a pension to any mine worker even though he may not possess the qualifications required by any other provision of this Part 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 mine worker.

Hard luck cases.

15 (2) Where the Tribunal awards a pension under subsection one of this section it shall determine, having regard to the matters referred to in that subsection, whether the rate of pension shall be two pounds per week or one pound ten shillings per week.

20 9. (1) Where a mine worker becomes eligible for a pension under section six, section seven or section eight of this Act, he shall also be eligible for an addition to such pension consisting of the following amounts—

Pensions—  
additional  
payments in  
respect of  
dependants.

25 (a) an amount of one pound per week in respect of his wife, which amount shall be payable until her death or until she ceases to be his wife;

30 (b) an amount of eight shillings and six pence per week in respect of each child (whether legitimate or illegitimate) and step-child under the age of sixteen years who is totally or mainly dependent on his earnings, which amount shall be payable until such child shall attain the age of sixteen years;

35 (c) where no amount is payable under paragraph (a) of this subsection, an amount of one pound per week in respect of one female who is totally or mainly dependent on his earnings, which amount shall be payable until her death or marriage or until she ceases to be such a dependant:

Provided

*Coal and Oil Shale Mine Workers (Pensions).*

Provided that no amount shall be paid under this paragraph unless the female in respect of whom such weekly payment is claimed—

- 5 (i) is an adult and is caring for any child or stepchild of the mine worker under the age of sixteen years; or
- (ii) is a member of the mine worker's family and is over the age of sixteen years;
- 10 (d) where no amount is payable under paragraph (b) of this subsection an amount of eight shillings and sixpence per week in respect of each brother and sister under the age of sixteen years who is totally or mainly dependent on his earnings, which amount shall be payable until
- 15 such brother or sister shall attain the age of sixteen years.

(2) Notwithstanding anything in subsection one of this section the Tribunal may award or continue a pension under paragraph (b) or paragraph (d) of that sub-

20 section in respect of any child who has attained the age of sixteen years if by reason of any physical or mental defect such child is totally incapacitated from earning a living.

(3) Notwithstanding anything in any other provi-

25 sion of this section the Tribunal may, if in the circumstances of any case it thinks fit so to do, regard as a child within the meaning of this section any child, who, though not within the relationships mentioned in this section, is maintained as a member of the family of a

30 mine worker.

(4) Where any amount is paid under this Part in respect of any child under sixteen years of age, the Tribunal may in its discretion, for the purpose of assisting in the further education of the child, continue the pension

35 for such period as it thinks fit not exceeding two years after the child has attained the age of sixteen years.

**10.** (1) Upon the death of—

- (a) a person who has been awarded a pension pursuant to section six, section seven or section
- 40 eight of this Act; or

Pension payable to dependants.

(b)

*Coal and Oil Shale Mine Workers (Pensions).*

(b) 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 intentional self-inflicted injury),

5 the widow of such person or mine worker or the female in respect of whom such person or mine worker, if he had remained alive, would have been entitled to an addition to his pension under paragraph (c) of subsection one of section nine of this

10 Act, shall be eligible for a pension of one pound ten shillings per week, which shall be payable until the death, remarriage or marriage of such widow or female, as the case may be, and the persons referred to in paragraphs (b) and (d) of subsection one and in subsections two,

15 three and four of section nine of this Act shall also be eligible for 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.

(2) Except as provided in ~~subsection three of~~ this section no person who is eligible for a pension under subsection one of this section (in this section hereinafter referred to as a "dependant"), shall be entitled to a pension under this Act as well as compensation under the Workers' Compensation Act, 1926-1938, **or damages**

20 **received or recovered independently of that Act in respect of the death of the mine worker.**

25

(3) Where either before or after the commencement of this Part the mine worker upon whose death the dependant is eligible for a pension under subsection

30 one of this section had, during his lifetime made a claim against his employer for compensation under the Workers' Compensation Act, 1926-1938, in respect of the injury or where, either before or after the commencement of this Part, the dependant has received or is in receipt

35 of or would, upon application, be entitled to compensation under that Act in respect of the death of the mine worker, the following provisions shall have effect:—

(a) Where the mine worker had elected, pursuant to section sixteen of the Workers' Compensation Act, 1926-1938, to accept an amount payable in

40 accordance

cf. Act No.  
30, 1912,  
s. 100b (5).

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

5 accordance with the table to that section, or had, pursuant to section fifteen of that Act, received a lump sum in redemption of weekly payments the disqualification under subsection two of this section shall cease to have effect on the expiration of a period ascertained as follows:—

10 The period shall be the period during which, if a pension had been awarded and paid to the mine worker as from the date upon which compensation became payable, the total sum paid to him by way of pension at the appropriate rate (including any additional amounts in respect of dependants) would have been equal to the amount payable in accordance with the said table or the amount of the lump sum as the case may be.

15 (b) Where the amount of compensation payable under the Workers' Compensation Act, 1926-1938, in respect of the death of the mine worker has been paid into the office of the Workers' Commission the disqualification under subsection two of this section shall cease to have effect on the expiration of a period ascertained as follows:—

20 The period shall be the period during which, if pensions had been awarded and paid to the dependants, the total sum paid to all the dependants by way of pension would have been equal to the amount of compensation.

25 (c) Where the dependants or any of them who are eligible for pensions under subsection one of this section would, upon application, be entitled to compensation under the Workers' Compensation Act, 1926-1938, the disqualification under subsection two of this section shall continue until such time as the application is made, and thereafter

*Coal and Oil Shale Mine Workers (Pensions).*

thereafter until such disqualification ceases to have effect pursuant to paragraph (b) of this subsection.

5           **Nothing in this paragraph shall be construed as disqualifying the dependants or any of them from receiving a pension by reason only of the fact that proceedings in respect of the death of the mine worker have been taken independently of the Workers' Compensation Act, 1926-1938.**

10           **(4) Where, either before or after the commencement of this Part—**

15           **(a) the mine worker upon whose death the dependant is eligible for a pension under subsection one of this section has, in his lifetime, received or recovered damages from his employer independently of the Workers' Compensation Act, 1926-1938, in respect of the injury; or**

20           **(b) the dependant has received or recovered or receives or recovers damages independently of that Act in respect of the death of the mine worker—**

the disqualification under subsection two of this section shall have effect until the expiration of a period to be determined in accordance with regulations made in that behalf.

25           **Such regulations shall, as far as practicable, apply to and in respect of such damages the like principles as under subsection three of this section are applicable to and in respect of compensation.**

30           **Without prejudice to the generality of the power to make regulations, the regulations made in relation to the matters referred to in this subsection may prescribe conditions subject to which such principles shall be so applied and may provide that part only of the amount of such damages is to be taken into account for the purposes of such regulations and in such case shall prescribe such part or the manner of ascertaining**  
 35           **the same.**

**11. (1) Where a mine worker becomes eligible for a pension pursuant to section six, section seven or section eight of this Act the pension shall, subject to this Act, be payable to him until his death.**

Pensions—  
special  
provisions.

(2)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(2) No mine worker shall be paid more than one pension under this Act.

(3) The total amount payable to any mine worker by way of pension (including all additions for which he  
5 may be eligible under section nine of this Act) shall not exceed the sum of four pounds five shillings and sixpence per week.

(4) All pensions payable under this Part shall vary to accord with fluctuations in the total sum which  
10 comprises the needs basic wage assessed on the index number for the weighted average of the five towns of New South Wales together with the fixed loading addition applicable to the needs basic wage so assessed.

For the purpose of calculating any such variation the  
15 amounts specified in sections six to ten, both inclusive, of this Act shall be deemed to have been fixed by reference to the total sum which comprised the needs basic wage so assessed and in force at the commencement of this Part together with the fixed loading addition applicable  
20 thereto.

Any such variation shall be calculated to the nearest sixpence.

**12.** (1) Except as provided in this section no mine  
25 worker shall be entitled to a pension under any provision of this Part, as well as compensation under the Workers' Compensation Act, 1926-1938, or damages received or recovered independently of that Act in respect of an injury arising out of and in the course of his employment as a mine worker.

No pension while compensation payable.

30 (2) Where either before or after the commencement of this Part a mine worker has received, or is in receipt of or would, upon application, be entitled to compensation under the Workers' Compensation Act, 1926-1938, the following provisions shall have effect:—

35 (a) Where a mine worker accepts or has accepted weekly payments of compensation under that Act the disqualification under subsection one of this section shall cease to have effect on the day upon which his right to such weekly payments ceases.  
40 (b)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

5 (b) Where the mine worker 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 pursuant to section fifteen of that Act, receives or has received a lump sum in redemption of weekly payments, the disqualification under subsection one of this section shall cease to have effect on the expiration of a period ascertained as follows:—

10 The period shall be the period during which, if a pension had been awarded and paid as from the date upon which compensation became payable, the total sum paid to the mine worker as pension (including any additional amounts in  
15 respect of dependants) would have been equal to the amount payable in accordance with the said table or the amount of the lump sum, as the case may be.

20 (c) Where the mine worker would, upon application, be entitled to compensation under the Workers' Compensation Act, 1926-1938, the disqualification under subsection one of this section shall continue until such time as he makes the application and thereafter until such disqualification  
25 ceases to have effect pursuant to paragraph (a) or paragraph (b) of this subsection.

30 **Nothing in this paragraph shall be construed as disqualifying the mine worker from receiving a pension by reason only of the fact that proceedings in respect of an injury arising out of and in the course of his employment as a mine worker have been taken independently of the Workers' Compensation Act, 1926-1938.**

35 **(3) Where, either before or after the commencement of this Part, a mine worker who becomes eligible for a pension under section seven of this Act has received or recovered or receives or recovers damages from his employer independently of the Workers' Compensation Act, 1926-1938, in respect of the injury the disqualification under subsection one of this section shall**

*Coal and Oil Shale Mine Workers (Pensions).*

shall have effect until the expiration of a period to be determined in accordance with regulations made in that behalf.

Such regulations shall, as far as practicable, apply to and in respect of such damages the like principles as, under subsection  
15 two of this section, are applicable to and in respect of compensation.

Without prejudice to the generality of the power to make regulations, the regulations made in relation to the matters referred to in this subsection may prescribe conditions subject  
10 to which such principles shall be so applied and may provide that part only of the amount of such damages is to be taken into account for the purposes of such regulations, and in such case shall prescribe such part or the manner of ascertaining the same.

15 **13.** (1) Any amount which a mine worker or his dependants has or have received, or upon application is or are entitled to receive from any invalid, old-age or war pension or as endowment under the Child Endowment Act 1941 of the Parliament of the Commonwealth  
20 or under the Widows' Pensions Act, 1925-1937, as amended by subsequent Acts, or, in the case of a permanently incapacitated mine worker under sixty years of age, from earnings derived or which might be derived from available employment of the nature referred to in  
25 subsection two of section seven of this Act in respect of any period for which a pension is payable under this Act, shall be deducted from the amount payable to him or them, as the case may be, as a pension under this Act.

Deductions  
from  
pensions.

(2) The Widows' Pensions Act, 1925-1937, as  
30 amended by subsequent Acts, is amended by inserting at the end of subsection one of section fifteen the following word and new paragraph:—

Amendment  
of Act No.  
23, 1925,  
s. 15.

nor

35 (c) any pension payable to her or to any of her children pursuant to the Coal and Oil Shale Mine Workers (Pensions) Act, 1941.

**14.** (1) Every application for a pension—

(a) shall be in or to the effect of the prescribed form;

Applica-  
tions for  
pensions.

(b)



*Coal and Oil Shale Mine Workers (Pensions).*

- (b) shall contain such particulars as may be prescribed;
- (c) shall be verified as prescribed;
- (d) shall be lodged with or forwarded to the Registrar.
- 5 (2) Upon receipt of any such application the Registrar shall make or cause to be made such investigations as appear to him desirable or as may be directed, either generally or in any particular case, by the Chair-  
10 man or by the Tribunal. cf. Invalid and Old-Age Pension Act 1908-1935 (Commonwealth), s. 28 (1).
- (3) Upon completion of his investigations the Registrar shall submit the application together with a full report of the result of his investigations to the Tribunal. cf. Ibid. s. 29 (1).
- 15 (4) The Tribunal shall thereupon consider the application and the report. cf. Ibid. s. 33 (2) and (3).
- (5) The Tribunal may allow or disallow the application or may refer the application to the Workers' Compensation Commission.
- 20 (6) The Workers' Compensation Commission shall have jurisdiction to hear and determine any application referred to it under this section.
- (7) The power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926-1938, shall extend to the making of rules for regulating the procedure and practice of such Commission in dealing with applications referred to it under this section and for prescribing all matters which are necessary or convenient to be prescribed by such  
25 rules in relation to the exercise of the jurisdiction conferred upon that Commission by this section.
- (8) The decision of the Workers' Compensation Commission on any application referred to it under this section shall be final and conclusive and shall be binding  
30 upon the applicant and the Tribunal.
- (9) Where the Tribunal allows the application it shall, in its determination, specify the rate of pension (including any additional amounts) awarded, and the date (whether before or after the date of the application) as  
40 from which the pension is to be payable.

(10)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(10) Where the Tribunal refers the application to the Workers' Compensation Commission that Commission shall, in its determination, specify the rate of pension (including additional amounts) awarded, and the date  
 5 (whether before or after the date of the application) as from which the pension is to be payable.

Any such determination shall be embodied in an order and a copy thereof shall be lodged with the Registrar and filed by him with the records of the Tribunal.

10

## PART III.

## THE TRIBUNAL.

**15.** (1) There shall be a Pensions Tribunal which shall exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the  
 15 Tribunal by this Act and the regulations.

(2) The Tribunal shall consist of five members who shall be appointed by the Governor.

(3) Of the members so appointed—

- 20 (a) one shall be appointed on the nomination of the Minister and shall, in and by the instrument of appointment, be appointed Chairman of the Tribunal;
- 25 (b) one shall be appointed on the nomination of organisations of the owners of coal mines in New South Wales and shall be representative of such owners;
- (c) one shall be appointed on the nomination of organisations of the owners of oil shale mines in  
 30 New South Wales and shall be representative of such owners;
- (d) one shall be appointed on the nomination of the mining unions and shall be representative of the employees in the coal mining industries of New South Wales;
- 35 (e) one shall be appointed on the nomination of the mining unions and shall be representative of the employees in the oil shale mining industries of New South Wales.

In

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

In this subsection the expression "mining union" means an industrial or trade union of employees or an association of employees registered as an organisation under the Commonwealth Conciliation and Arbitration Act 1904-1934, of the Parliament of the Commonwealth of which union or organisation the membership is comprised of or includes mine workers.

(4) Every nomination shall be made as prescribed and shall be sufficient if made by such organisations of the owners or such of the unions concerned as the Minister deems sufficient.

(5) If no person, or no person able and willing to act as a member of the Tribunal is, within the time prescribed, nominated as the representative of any of the classes of persons referred to in subsection three of this section, the member of the Tribunal representative of such class may be appointed on the nomination of the Minister.

(6) At any meeting of the Tribunal if the question or matter to be considered is—

(a) solely in connection with the coal mining industry or the Coal Mine Workers' Pensions Fund only the Chairman and the two members of the Tribunal representative of the owners of coal mines and of the employees in the coal mining industry shall be entitled to vote;

(b) solely in connection with the oil shale mining industry or the Oil Shale Mine Workers' Pensions Fund only the Chairman and the two members of the Tribunal representative of the owners of oil shale mines and of the employees in the oil shale mining industry shall be entitled to vote;

(c) of a general nature all five members of the Tribunal shall be entitled to vote.

Any question or matter shall be decided by a majority of the members present and entitled to vote, and the decision so arrived at shall be the decision of the Tribunal.

(7)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(7) At any meeting of the Tribunal if the question or matter before the Tribunal is—

- 5 (a) solely in connection with the coal mining industry or the Coal Mine Workers' Pensions Fund, any two of the members entitled to vote at such meeting shall form a quorum;
- 10 (b) solely in connection with the oil shale mining industry or the Oil Shale Mine Workers' Pensions Fund, any two of the members entitled to vote at such meeting shall form a quorum;
- 15 (c) of a general nature any three members (of whom at least one shall be representative of the interests referred to in paragraphs (b) and (c) of subsection three of this section, and at least one shall be representative of the interests referred to in paragraphs (d) and (e) of that subsection) shall form a quorum.

Any meeting at which a quorum is present shall be competent to transact any business of the Tribunal.

20 (8) (a) The member appointed Chairman of the Tribunal shall, subject to this Act, hold office as such for a period of six years and shall be eligible for re-appointment.

25 (b) The members of the Tribunal other than the Chairman shall, subject to this Act, hold office as such for a period of three years and shall be eligible for re-appointment.

(9) The office of a member of the Tribunal shall become vacant if he—

- 30 (a) resigns his office by writing under his hand addressed to the Governor;
- (b) without the permission of the Tribunal or the Chairman fails to attend three consecutive meetings of the Tribunal at which he is entitled to vote;
- 35 (c) is removed from office by the Governor for misbehaviour or incompetence;
- (d) becomes bankrupt or assigns his estate for the benefit of his creditors;

(e)

*Coal and Oil Shale Mine Workers (Pensions).*

- (e) is convicted of a felony or misdemeanour;
- (f) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898.
- 5 (10) On the occurrence of any vacancy in the office of a member of the Tribunal the person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.
- 10 (11) No act or proceeding of the Tribunal shall be invalidated or prejudiced by reason only of the fact that at the time such act or proceeding is done, taken or commenced there is a vacancy in the office of any member.
- 15 (12) (a) The Chairman of the Tribunal shall be entitled to receive such remuneration, whether by way of annual salary or by way of fees for meetings attended, as the Governor may determine.
- (b) The members of the Tribunal other than  
20 the Chairman shall be entitled to receive such remuneration by way of fees for meetings attended as the Governor may determine.
- (c) The members of the Tribunal shall be  
25 entitled to receive travelling expenses at such rate as the Governor may determine.
- (13) The office of Chairman or of member of the Tribunal shall not for the purposes of the Constitution Act, 1902, or of any Act amending that Act, be deemed to be an office or place of profit under the Crown.
- 30 **16.** (1) The Governor may, under and subject to the Registrar, officers and employees.  
Public Service Act, 1902, as amended by subsequent Acts, appoint a Registrar and such officers and employees as may be necessary for the administration of this Act.
- (2) The Registrar shall have and may exercise  
35 and discharge the powers, authorities, duties and functions conferred and imposed upon the Registrar by or under this Act.

*Coal and Oil Shale Mine Workers (Pensions).*

**17.** (1) The Tribunal, or the Chairman or the Registrar, may, for the purposes of any inquiry or investigation which it or he is authorised to make—

- (a) summon witnesses;
- 5** (b) receive evidence on oath; and
- (c) require the production of documents.

Powers of Tribunal in respect of inquiries and investigations.

cf. Child Endowment Act 1941 (Commonwealth), s. 11.

(2) A person who has been lawfully summoned to appear before the Tribunal, the Chairman or the Registrar, shall not fail to appear, and a person who

**10** appears, whether summoned or not, shall not—

- (a) refuse to be sworn as a witness;
- (b) fail to answer any question he is lawfully required to answer; or
- 15** (c) fail to produce any document he is lawfully required to produce.

(3) Any person who neglects or fails to comply with any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding fifty pounds

20

## PART IV.

## FUNDS AND CONTRIBUTIONS.

**18.** (1) There shall be established under this Act two funds to be known respectively as the Coal Mine Workers' Pensions Fund and the Oil Shale Mine Workers' Pensions Fund.

**25**

(2) (a) The Coal Mine Workers' Pensions Fund shall consist of such moneys as are required or authorised by this Act to be paid into that Fund.

(b) There shall be payable out of the Coal Mine Workers' Pensions Fund all pensions payable to mine workers or to the dependants of mine workers who were employed or engaged in the coal mining industry and to mine workers or the dependants of mine workers who, in the opinion of the Tribunal, were engaged in

**30** work associated with that industry.

**35**

(3)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(3) (a) The Oil Shale Mine Workers' Pensions Fund shall consist of such moneys as are required or authorised by this Act to be paid into that Fund.

(b) There shall be payable out of the Oil  
 5 Shale Mine Workers' Pensions Fund all pensions payable to mine workers or the dependants of mine workers who were employed or engaged in the oil shale mining industry and to mine workers or the dependants of mine workers who, in the opinion of the Tribunal, were  
 10 engaged in work associated with that industry.

(4) The expenses involved in the administration of this Act shall be paid out of the Funds in such proportions as the Tribunal may determine.

(5) The Funds shall be under the control of the  
 15 Tribunal and shall be operated upon in the manner prescribed.

(6) Any moneys in either of such Funds which are not immediately required for the purposes of that Fund may be invested by the Tribunal in any manner in  
 20 which trustees are for the time being authorised to invest trust funds.

Any interest from time to time accruing from any such investment shall be paid into the Fund the moneys of which are so invested.

25 **19.** (1) The Tribunal shall, as soon as practicable after the day appointed and notified for the commencement of Part II of this Act, make an estimate of the amount required by each Fund for the period commencing on the day so appointed and notified and ending on the  
 30 thirtieth day of June next following 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.

The amount to be provided in that period for the  
 35 reserve in connection with each Fund shall be such amount as the Governor may direct.

(2) The Tribunal shall make an estimate of the amount required by each Fund for the period of twelve months commencing on the first day of July next following the expiration of the period referred to in subsection  
 40 one

Contributions.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

one of this section, and thereafter for each succeeding 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

5 Fund.

The amount to be provided in any year for the reserve in connection with each Fund shall be such amount as the Governor may direct.

10 Each estimate made under this subsection shall be made not later than the thirty-first day of March next preceding the commencement of the period to which the estimate relates.

(3) (a) A sum equivalent to one-fourth of the total of the amounts estimated by the Tribunal pursuant to subsection one or subsection two of this section or the sum of eighty thousand pounds whichever is the less shall be paid by the Colonial Treasurer to the Tribunal, and shall be apportioned between the respective funds in such proportions as the Colonial Treasurer may 15 direct or, if no such direction is given, as the Tribunal may determine.

(b) The balance of the amount so estimated by the Tribunal in respect of each fund shall be paid to the Tribunal—

25 (i) as to one-third part thereof by the mine workers;  
(ii) as to two-third parts thereof by the owners.

(4) Any moneys payable by the Colonial Treasurer under this section shall be paid out of moneys provided by Parliament.

30 (5) The moneys payable by the owners under this section shall be paid in such manner and at such times as may be prescribed.

Without prejudice to the generality of the foregoing provisions of this subsection regulations may prescribe 35 the basis or bases upon which the contributions of individual owners may be assessed.

(6) The moneys payable by the mine workers under this section shall be paid in such manner and at such times as may be prescribed.

40 Without prejudice to the generality of the foregoing provisions of this subsection the regulations may prescribe



*Coal and Oil Shale Mine Workers (Pensions).*

prescribe the basis or bases upon which the contributions of individual mine workers are to be assessed, and may, **notwithstanding the provisions of the Truck Act, 1900, or of section ninety-two of the Industrial Arbitration Act, 1940,** provide for the collection (by deduction from wages or otherwise) and payment to the Tribunal by the employers of mine workers of any such contributions.

## PART V.

## MISCELLANEOUS.

10 **20.** (1) Subject to this Act, a pension shall be absolutely inalienable, whether by way or in consequence of sale, assignment, charge, execution, insolvency, or otherwise howsoever:

Pensions to be inalienable.

15 Provided that nothing herein shall be construed to prevent the Tribunal, with or without the consent of the pensioner, from paying the whole or any portion of the pension to any other person for the use of the pensioner or in satisfaction to the extent thereof of any of his just debts or liabilities.

20 (2) Every person commits an offence and shall be liable to a penalty not exceeding fifty pounds who demands or accepts from any pensioner under this Act any certificate or any acknowledgment or undertaking that would constitute a legal or equitable assignment of  
25 or charge upon any pension under this Act if such pension were capable of being legally assigned or charged.

30 **21.** (1) Where any mine worker who has been awarded a pension pursuant to this Act is sentenced to imprisonment for any period in excess of one month, his pension rights pursuant to this Act shall be suspended during the period of such imprisonment, and any person who would, if the mine worker were dead, have been eligible for a pension under section ten of this Act, shall be eligible for a pension in accordance with that section  
35 during the period of such imprisonment as if the mine worker were dead.

Suspension of pension rights in certain events—alternative pensions to dependants.

(2) Where any mine worker who is eligible for or who has been awarded a pension pursuant to this Act becomes an insane patient within the meaning of the Lunacy

*Coal and Oil Shale Mine Workers (Pensions).*

Lunacy Act of 1898, as amended, his pension rights pursuant to this Act shall be suspended while he continues to be such an insane patient, and any person who would, if the mine worker were dead, have been eligible for a  
 5 pension under section ten of this Act, shall be eligible for a pension in accordance with that section during the period for which the mine worker continues to be an insane patient as if the mine worker were dead, and shall be entitled to retain the whole of the said pension  
 10 for his own use and benefit absolutely the provisions of any other Act notwithstanding.

(3) The wife of any mine worker eligible for or in receipt of a pension under this Act who has been deserted by her husband or who has been left by him  
 15 without means of support and who satisfies the Tribunal—

(a) that she has taken proceedings against her husband for an order under the Deserted Wives and Children Act, 1901-1931, and either that  
 20 she has failed to obtain an order or that the order, if made, has not been complied with; and

(b) that the whereabouts of her husband are not known,

shall be eligible for a pension in accordance with section  
 25 ten of this Act, as if the mine worker were dead, during the period for which she is so deserted or left without means of support.

Where a pension is awarded to a deserted wife pursuant to this subsection the Tribunal may suspend the  
 30 pension payable to the mine worker or may direct that such pension is to be reduced by the amount of the pension payable to the deserted wife.

**22.** Where a person entitled to payment of a pension under this Act is for any cause unable to give a valid  
 35 receipt for such payment the Tribunal or the Chairman may direct that payment be made to some person on his behalf, and the receipt of such person for any payment so made shall be a valid discharge.

Appoint-  
ment of  
person to  
receive  
pension.

**23.** (1) The Minister may refer any question arising  
 40 under this Act to the Industrial<sup>1</sup> Commission of New South Wales.

References to  
Industrial Com-  
mission of New  
South Wales.

(2)

*Coal and Oil Shale Mine Workers (Pensions).*

(2) The Industrial Commission of New South Wales shall, for the purpose of hearing and determining any question referred to it under this section, be constituted by a full bench of three judges.

5 All persons interested and appearing before the Industrial Commission of New South Wales, including the Minister and the Tribunal, shall be entitled to be heard.

(3) The power to make regulations conferred by the Industrial Arbitration Act, 1940, shall extend to the  
10 making of regulations for regulating the procedure to be followed in proceedings before the Industrial Commission of New South Wales arising under and pursuant to this section and for prescribing all matters which are  
15 necessary or convenient to be prescribed by such regulations in relation to the exercise or discharge of the functions of that Commission under this section.

24. (1) Any part of the contributions required to be paid by section nineteen of this Act that is not paid on the due date and all penalties incurred in respect  
20 thereof shall constitute a debt due and payable to the Crown, and shall be recoverable in any court of competent jurisdiction by the Chairman of the Tribunal on behalf of the Crown by suit in his official name.

Unpaid contributions recoverable as debt.

(2) If in any proceedings against any person for  
25 failure to pay any contribution payable under section nineteen of this Act within the time prescribed the defendant alleges that he is exempt from the obligation to pay the contribution, or that he has paid the contribution, the burden of proving such exemption or payment  
30 shall be on him.

25. (1) Where it is found that any pension or instalment of a pension which is not payable has been paid or that any sum paid by way of pension or instalment of pension is in excess of the amount so payable, the amount  
35 wrongly paid may be recovered as a debt due to the Crown at the suit of the Chairman of the Tribunal in his official name, or, where it is practicable so to do, the Tribunal may make any necessary adjustments in any instalments of the same or any other pension thereafter  
40 becoming payable.

Recovery of over-payments of pensions.

*Coal and Oil Shale Mine Workers (Pensions).*

(2) Nothing in this section shall relieve the person wrongly receiving any such payment from any other liability in respect of any fraud committed by him.

**26.** (1) The Tribunal shall cause to be kept proper Accounts and audit.  
 5 books of account, and shall, as soon as practicable after the thirtieth day of June in each year, prepare and transmit to the Minister for presentation to Parliament statements of accounts in a form approved by the Auditor-General, exhibiting a true and correct view of  
 10 the financial position and transactions of the Tribunal.

(2) The accounts of the Tribunal shall be audited by the Auditor-General, who shall have, in respect thereof, all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to  
 15 the audit of public accounts; and the Audit Act, 1902, and Acts amending the same, shall apply to the Tribunal, the members of the Tribunal, and the officers and employees concerned in the administration of this Act in the same manner as it applies to accounting officers  
 20 of public departments.

**27.** The Minister shall once in every three years, and may at such other times as he thinks fit, cause an examination and report to be made by an actuary appointed by him, upon the assets and liabilities of each of the  
 25 funds established under section eighteen of this Act. Actuarial investigation of funds.

**28.** For the purpose of providing for the requirements of the funds established under section eighteen of this Act the Colonial Treasurer may, in and for any period in respect of which a contribution is payable by  
 30 him under section nineteen of this Act, make advances against the contribution payable by him in respect of that period, to either or both of the funds of such amount or amounts (not exceeding in the aggregate the amount of the contribution) as may in his opinion be necessary.  
 35 Any such advance shall be in satisfaction in whole or in part of the contribution so payable in respect of that period. Advances by Treasury.

**29.** (1) Any person who, for the purpose of obtaining any pension under this Act, for himself or for any other  
 40 person, or for the purpose of obtaining exemption from any obligation under this Act, for himself or for any other  
 other Offences.

*Coal and Oil Shale Mine Workers (Pensions).*

other person, makes any false statement to or otherwise misleads or attempts to mislead the Tribunal, the Registrar or any officer concerned in the administration of this Act or the Workers' Compensation Commission of New  
 5 South Wales or any other person whomsoever or otherwise commits any fraudulent act or omission, shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for twelve months.

10 (2) Where a person is convicted of an offence under subsection one of this section and it is made to appear that, in consequence of such offence he was wrongly paid any amount by way of pension, the Court may, in addition to the penalty or punishment referred to  
 15 in that subsection, impose a penalty or additional penalty not exceeding twice the amount so wrongly paid.

**30.** (1) Any penalty imposed by or under this Act or the regulations may be recovered in a summary manner before a stipendiary or police magistrate, or any two  
 20 justices in petty sessions.

Recovery  
of penal-  
ties.

(2) Any magistrate or justices may in any proceedings for a penalty under this Act or the regulations make such order as to the payment of costs as may be thought just, and may assess the amount of such costs.

25 **31.** All fines and penalties paid or recovered under this Act or the regulations shall be paid to the Tribunal and shall be paid by it into such of the funds as the Tribunal may think fit having regard to the offence in respect of which the fine or penalty was imposed.

Fines and  
penalties  
to be paid  
into appro-  
priate Fund.

30 **32.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regula-  
tions.

35 (2) In particular and without prejudice to the generality of subsection one of this section the regulations may—

40 (a) prescribe the manner and form of claims for pensions, the persons by whom claims may be made, and the particulars to be furnished in support of such claims;

(b)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- 5 (b) prescribe the general conditions governing the allowance of pensions, and the manner in which such allowance is to be signified or evidenced;
- (c) prescribe the general conditions governing the payment of pensions and the manner in which and times at which payment is to be made;
- 10 (d) make provision for the repayment of contributions or part thereof to contributors in such cases (if any) and subject to such conditions as may be prescribed;
- (e) require employers of mine workers to keep records in such manner or in such form as may be prescribed, showing the commencement and cessation of the employment of each mine worker and such other particulars as may be prescribed;
- 15 (f) **require any person to whom a pension is payable under this Act, to make full and complete disclosure to the Tribunal in relation to any amounts which, by this Act, are directed to be deducted from the pension so payable, and to make such disclosure in such manner and at such times as the Tribunal may direct either generally or in any particular case or class of cases.**
- 20 (3) The regulations may impose a penalty not exceeding ten pounds for any breach of the regulations.
- (4) Any regulations made under this Act shall—
- (a) be published in the Gazette;
- 25 (b) take effect from the date of publication, or from a later date to be specified in the regulations; and
- 30 (c) be laid before both Houses of Parliament within fourteen sitting days after publication, if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.
- 35 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof such regulation or part shall thereupon cease to have effect.
- 40

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

W. R. McCOURT,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 3 September, 1941.*

## New South Wales.



ANNO QUINTO

# GEORGI VI REGIS.

\*\*\*\*\*

Act No. , 1941.

An Act to prohibit the employment and the continuance in employment in the coal or oil shale mining industries, and in certain callings related thereto, of certain persons of or above the age of sixty years; to make provision for and with respect to the payment of pensions to such persons and certain other persons; to amend the Widows' Pensions Act, 1925-1937, and certain other Acts; and for purposes connected therewith.

**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  
5 the same, as follows:—

### PART I.

#### PRELIMINARY.

**1.** (1) This Act may be cited as the "Coal and Oil Shale Mine Workers (Pensions) Act, 1941."

75041 2—A

Short title,  
commencement  
and construc-  
tion.

(2)

*Coal and Oil Shale Mine Workers (Pensions).*

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY—ss. 1-4.

PART II.—COMPULSORY RETIREMENT AND PENSIONS—  
ss. 5-14.

5 PART III.—THE TRIBUNAL—ss. 15-17.

PART IV.—FUNDS AND CONTRIBUTIONS—ss. 18, 19.

PART V.—MISCELLANEOUS—ss. 20-32.

(3) (a) Parts I and V of this Act shall commence  
on the day upon which the assent of His Majesty to this  
10 Act is signified.

(b) Parts II, III and IV of this Act shall com-  
mence upon such day or days as may be appointed by the  
Governor and notified by proclamation published in the  
Gazette.

15 A different day may be so appointed and notified in  
respect of any of such Parts.

(4) This Act shall be read and construed subject  
to the Commonwealth of Australia Constitution Act and  
so as not to exceed the legislative power of the State to  
20 the intent that where any provision of this Act or of the  
regulations or the application thereof to any person or  
circumstance is held invalid, the remainder of this Act  
or of such regulations and the application of such pro-  
vision to other persons or circumstances shall not be  
25 affected.

(5) This Act shall be read and construed with the  
Coal Mines Regulation Act, 1912, as amended by subse-  
quent Acts.

2. (1) In this Act, unless the context or subject-matter  
30 otherwise indicates or requires,—

“Injury” has the meaning given to that expression  
in the Workers’ Compensation Act, 1926, as  
amended by subsequent Acts.

“Mine worker” means—

35 (a) a person who is employed (whether  
underground or above ground) in or  
about a coal or oil shale mine in New  
South Wales by the owner of the mine;  
(b)



---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- 5 (b) a person who was, at any time after the first day of January, one thousand nine hundred and twenty-eight, engaged in the coal or oil shale mining industries in New South Wales;
- 10 (c) a person who has, at any time after the first day of February, one thousand nine hundred and thirty, and before the commencement of this Act, become permanently incapacitated by injury arising out of and in the course of his employment (whether underground or above ground) in or about a coal or oil shale mine in New South Wales;
- 15 (d) a person (including a permit manager) working (whether underground or above ground) in or about a small mine in New South Wales;
- 20 (e) 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, is principally engaged in the transport of coal or oil shale from the mine to the point of delivery by the owner; and for the purposes of this paragraph "point of delivery" means the place at which coal or oil shale is delivered by the owner of the mine to any railway of the Commissioner for Railways, or to the South Maitland Railway, or to any wharf or other place appointed for the purpose, and includes, in any case where process works are carried on by the owner of the mine, the place at which coal or oil shale is delivered at such works;
- 25
- 30
- 35 (f) a check-weigher or district check inspector;
- (g)

*Coal and Oil Shale Mine Workers (Pensions).*

- (g) a member of a permanent rescue corps established at a central rescue station pursuant to the Mines Rescue Act, 1925;
- 5 (h) an elected official of an industrial or trade union of employees, or of an association of employees registered as an organisation under the Commonwealth Conciliation and Arbitration Act 1904-1934 of the Parliament of the Commonwealth, of which union or organisation the membership is principally confined to persons falling within any one or more of the classes referred to in paragraphs (a) to (g) of this definition:
- 10
- 15

Provided that (subject to subsection four of this section) the expression "mine worker" shall not include—

- (i) a superintendent, manager, or under manager;
- 20
- (ii) the official known as the colliery engineer and the official appointed as mine electrician pursuant to section twenty-two of the Coal Mines Regulation Act, 1912, as amended by subsequent Acts;
- 25
- (iii) a person engaged in clerical work in connection with a coal or oil shale mine;
- (iv) a person (other than a person of the class referred to in paragraph (e) of this definition) employed in or in connection with the oil shale industry whose work does not relate to the mining of oil shale;
- 30
- (v) a coke worker;
- 35
- (vi) a superintendent or an instructor appointed pursuant to the Mines Rescue Act, 1925.

40 "Ownēr" has the meaning given to that expression in the Coal Mines Regulation Act, 1912, as amended by subsequent Acts.

"Pension"

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

“Pension” means a pension payable under this Act and includes any amounts payable as an addition to a pension.

5 “Prescribed” means prescribed by this Act or the regulations.

“Regulations” means regulations made under this Act.

“Tribunal” means the Pensions Tribunal constituted under this Act.

10 (2) A person shall, for the purposes of this Act, be deemed to be “engaged in the coal or oil shale mining industries”—

(a) for any period (whether before or after the commencement of Part II of this Act) during  
15 which he is employed as a mine worker;

(b) for any period (whether before or after the commencement of Part II of this Act) during which he is unemployed, if, immediately before the date upon which he so became unemployed—

20 (i) he was employed (whether underground or above ground) in or about a coal or oil shale mine in New South Wales by the owner of the mine; or

25 (ii) he was a member of a permanent rescue corps established at a central rescue station pursuant to the Mines Rescue Act, 1925:

30 Provided that a person shall not be deemed to be “engaged in the coal or oil shale mining industries” by reason of the operation of paragraph (b) of this subsection unless he satisfies the Tribunal that his employment was terminated otherwise than for misconduct and that his failure to obtain other employment was  
35 through no fault on his part:

40 Provided further that the period for which any such person is unemployed shall be deemed not to be interrupted by periods during which he is employed upon relief work or upon other work of a casual nature.

(3)

*Coal and Oil Shale Mine Workers (Pensions).*

(3) A reference in any provision of this Act to the "date of retirement" shall, in the application of that provision to or in respect of any particular mine worker, be construed as a reference to the date on and after  
5 which the employment of that mine worker as a mine worker would be an offence under section five of this Act.

(4) (a) The Governor may, by proclamation published in the Gazette, extend the definition of "mine  
10 worker" to include any one or more of the classes of persons referred to in the proviso to that definition.

Any such proclamation shall take effect as from the date of the publication thereof in the Gazette or from a later date to be specified in the proclamation.

15 As from the date upon which any such proclamation takes effect the provisions of this Act shall (subject to any modification which may be made pursuant to paragraph (b) of this subsection) apply to and in respect of persons who are members of the class to which the  
20 proclamation relates.

(b) In any proclamation published pursuant to paragraph (a) of this subsection the Governor may, if he thinks fit, specify an age (being later than the age of sixty years) which shall be the retiring age of persons  
25 who are members of the class to which the proclamation relates.

Where a retiring age is so specified the provisions of this Act, in their application to and in respect of persons who are members of such class, shall be deemed to be  
30 modified to the extent following, that is to say—section five of this Act shall have and take effect as if the age specified in the proclamation were substituted for the age of sixty years referred to therein, and references in this Act to the "date of retirement" shall be construed  
35 accordingly.

3. (1) Any mine worker who is absent from New South Wales or from his employment upon war service, as defined in the Defence Act 1903, as amended by subsequent Acts, of the Parliament of the Commonwealth or  
40 upon any kind of work or service in connection with any war in which Australia is, for the time being, engaged, shall

Special provisions as to calculation of periods of employment.

*Coal and Oil Shale Mine Workers (Pensions).*

shall be deemed to have been continuously resident in New South Wales and to have been employed in or about a coal or oil shale mine, as the case may be, during the period of such absence.

5 (2) Any mine worker who is lawfully absent from work on an award holiday or on annual leave or through sickness or accident not due to his own fault shall be deemed to have actually worked in or about a coal or oil shale mine, as the case may be, during the period of such  
10 absence.

(3) Continuous residence in New South Wales shall be deemed not to have been interrupted by occasional absences not exceeding in the aggregate one-tenth of the total period of residence, and for the purposes of this  
15 Act, the period of any such absence shall be counted as a period of residence in New South Wales.

(4) Any elected official of an industrial or trade union of employees or of an association of employees registered as an organisation under the Commonwealth  
20 Conciliation and Arbitration Act 1904-1934 shall, for the purposes of this Act, be deemed to have actually worked in or about a coal or oil shale mine in New South Wales or in Australia, as the case may be, for the whole of the period during which he held office as such elected official.

25 (5) Any member of a permanent rescue corps established at a central rescue station shall, for the purposes of this Act, be deemed to have actually worked in or about a coal or oil shale mine in New South Wales for the whole of the period during which he was such a  
30 member.

(6) For the purposes of this Act the work of persons of the classes referred to in paragraphs (e) and (f) of the definition of "mine worker" shall be deemed to be work in or about a coal or oil shale mine.

35 4. (1) Where the Governor is satisfied—

(a) that there is in force in any other State of the Commonwealth of Australia legislation providing for the payment of pensions to mine workers and their dependants, and that such  
pensions

Reciprocat-  
ing States.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

pensions are of the like amount and are awarded on the like conditions as the pensions for which provision is made in this Act; and

- 5 (b) that an agreement with such other State has been entered into under subsection two of this section,

he may, by proclamation published in the Gazette, declare such other State to be a reciprocating State for the purposes of this Act.

- 10 (2) The Minister may, for and on behalf of this State, enter into an agreement with a Minister of the Crown for such other State acting for and on behalf of such other State, with respect to all or any of the following matters:—

- 15 (a) the circumstances in which and the conditions subject to which the Tribunal will, for the purposes of this Act, regard any person who is or has been a mine worker in or is or has been engaged in the coal or oil shale mining industries of such other State, as a  
20 person who is or has been a mine worker in or is or has been engaged in the coal or oil shale mining industries of New South Wales;

- 25 (b) the circumstances in which and the conditions subject to which the Tribunal may accept and act upon a certificate furnished by the Minister of the Crown for such other State or by any specified officer of such other State that  
30 any person is or has been a mine worker in or is or has been engaged in the coal or oil shale mining industries of such other State, and the period or periods during which he has been such a worker or has been so engaged;

- 35 (c) the circumstances in which and the conditions subject to which the funds established under this Act or either of them shall be liable for the payment of the whole or any part of any pension awarded to a person of the class referred to in paragraph (a) of this subsection;

(d)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- 5 (d) the circumstances in which and the conditions subject to which payment may be made from the funds established under this Act, or either of them, to the corresponding funds or fund established under the legislation of such other State;
- (e) the making of such provision as may be necessary to ensure that a mine worker or his dependants shall not become entitled to payment of a pension under this Act as well as under the  
10 legislation of such other State;
- (f) any adjustments which may be necessary if the proclamation declaring such other State to be a reciprocating State is revoked;
- 15 (g) any other matter arising under this Act which the Minister may consider necessary or convenient to be included in the agreement.

No agreement entered into under this subsection shall have any force or effect until the proclamation referred to in subsection one of this section has been published.

- 20 (3) The Governor may, if he thinks fit, by proclamation published in the Gazette, revoke any proclamation under subsection one of this section.

Where a proclamation is so revoked the agreement entered into under subsection two of this section shall  
25 lapse except to the extent to which it relates to the matters referred to in paragraph (f) of that subsection.

- (4) Where a proclamation declaring any other State of the Commonwealth of Australia to be a reciprocating State has been published and is still in force the  
30 provisions of this Act shall be deemed to be modified to the extent necessary to enable the agreement entered into under subsection two of this section with such other State to be carried into effect.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

## PART II.

## COMPULSORY RETIREMENT AND PENSIONS.

5. (1) Subject to this section no person shall take into  
or retain in his employment as a mine worker any person  
5 who is of or above the age of sixty years and no person  
of or above the age of sixty years shall accept or continue  
in employment as a mine worker.

Employment  
after 60  
years of age  
prohibited.

(2) (a) Every mine worker who is, at the com-  
mencement of this Part, employed as a mine worker, and  
10 who is, at such commencement, of or above the age of  
sixty years, shall be retired from and shall vacate his  
employment as a mine worker upon the expiration of the  
period of three months after such commencement.

(b) Every mine worker who is, at any time  
15 after the commencement of this Part, employed as a mine  
worker and who, whilst so employed, attains the age of  
sixty years, shall be retired from and shall vacate his  
employment as a mine worker immediately upon attain-  
ing that age:

20 Provided that any such mine worker who attains the  
age of sixty years at any time within the period of three  
months after the commencement of this Part shall be  
retired from and shall vacate his employment as a mine  
worker upon the expiration of that period.

25 (c) A person of or above the age of sixty years  
who is not, at the commencement of this Part, employed  
as a mine worker, shall not, at any time after such com-  
mencement, be employed as a mine worker.

(3) Any person who neglects or fails to comply  
30 with any of the provisions of this section shall be guilty  
of an offence and shall be liable on conviction to a  
penalty not exceeding fifty pounds and to a further  
penalty not exceeding five pounds for every day during  
which the offence continues.

35 (4) (a) The Tribunal may, from time to time, upon  
special cause being shown, suspend the operation of sub-  
sections one and two of this section in their application  
to and in respect of any specified employment of a speci-  
fied mine worker.

Any



---

*Coal and Oil Shale Mine Workers (Pensions).*

---

Any such suspension may be made subject to such conditions (if any) as the Tribunal may impose.

Any such suspension shall be evidenced by a certificate of exemption which shall be issued by the Tribunal and  
 5 shall specify the employment in respect of which the operation of those subsections is suspended, the mine worker to whom the certificate relates, the period for which the certificate is to remain in force, and the conditions (if any) subject to which the operation of those  
 10 subsections is suspended.

(b) The Tribunal may, from time to time, suspend the operation of subsections one and two of this section in their application to and in respect of the employment in or about any specified mine of all mine  
 15 workers, or of any specified class of mine workers or of all mine workers other than those of a specified class.

Any such suspension may be made subject to such conditions (if any) as the Tribunal may impose.

Any such suspension shall be evidenced by a certificate  
 20 of exemption which shall be issued by the Tribunal and shall specify the mine to which the certificate relates and shall indicate whether the certificate relates to the employment of all mine workers or of a specified class of mine workers or of all mine workers other than those of a  
 25 specified class. The certificate shall also specify the period for which the same is to remain in force, and the conditions (if any) subject to which the operation of those subsections is suspended.

(c) The employment of a mine worker after the  
 30 date of retirement shall not, where such employment is under and in accordance with a certificate issued under this subsection, constitute an offence.

**6.** (1) Any mine worker who is employed as a mine  
 35 worker at the commencement of this Part or at the date upon which he attains the age of sixty years, whichever is the later, or who though not so employed had, during the twelve months immediately preceding the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, actually  
 40 worked as a mine worker for not less than sixty days in all during the said period of twelve months, shall be eligible,

Pensions—  
 mine  
 workers who  
 are retired.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

eligible, as from the date of retirement, to a pension of two pounds per week if he establishes to the satisfaction of the Tribunal that—

- 5 (a) he has been continuously resident in New South Wales during the five years immediately preceding the date of retirement, and
- 10 (i) he has actually worked in or about a coal or oil shale mine in New South Wales for not less than three hundred days during the said period of five years; or
- 15 (ii) before the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, he has been engaged in the coal or oil shale mining industries in New South Wales for a period of not less than twenty years in all; or
- 20 (b) he has been resident in New South Wales for not less than five years out of the seven years immediately preceding the date of retirement; and
- 25 (i) he has actually worked in or about a coal or oil shale mine in Australia for not less than five hundred days during such period of seven years; or
- 30 (ii) before the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, he has been engaged in the coal or oil shale mining industries in New South Wales for a period of not less than twenty years in all.
- 35 (2) Any mine worker who is, at the commencement of this Part, of or above the age of sixty years and who had, during the twelve months immediately preceding such commencement, actually worked as a mine worker for not less than sixty days in all, but who is unable to satisfy the conditions contained in paragraph (a) or paragraph

*Coal and Oil Shale Mine Workers (Pensions).*

paragraph (b) of subsection one of this section, shall be eligible as from the date of retirement for a pension of one pound ten shillings per week:

5 Provided that the Tribunal shall not award a pension under this subsection to any mine worker unless, in its opinion, the employment of such mine worker was bona fide, and was not arranged solely or mainly for the purpose of enabling such mine worker to become eligible for a pension pursuant to this subsection.

10 (3) Any mine worker who, at the date of retirement, is not eligible, pursuant to subsection one or subsection two of this section, for a pension, shall be eligible, as from the date of retirement, for a pension of one pound ten shillings per week if he establishes to the  
15 satisfaction of the Tribunal—

(a) that during the ten years immediately preceding the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, he has been engaged in the  
20 coal or oil shale mining industries in New South Wales and during such period has actually worked in the coal or oil shale mining industries in New South Wales for a period of not less than six hundred days in all; or

25 (b) that before the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, he has been engaged in the coal or oil shale mining industries in New South Wales for a period of not less  
30 than twenty years in all.

7. (1) A mine worker shall, subject to this section, be eligible for a pension of two pounds per week if he proves to the satisfaction of the Tribunal— Pension—  
permanent  
incapacity.

35 (a) 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 February, one thousand nine hundred and thirty, or arose after such commencement; and  
40

(b)

*Coal and Oil Shale Mine Workers (Pensions).*

(b) that by reason of such incapacity he is unable to continue in employment as a mine worker; and

(c) that—

- 5 (i) in any case where the mine worker is of or above the age of sixty years, the incapacity continued until the date of his application for a pension under this section; or
- 10 (ii) in any case where the mine worker is under the age of sixty years, the incapacity is likely to be permanent:

Provided that a mine worker shall not be eligible for a pension under this subsection where the injury giving rise to the incapacity was an intentional self-inflicted injury. ef. Act No. 15, 1926, s. 7 (3) (e).

(2) Where a mine worker is awarded a pension pursuant to subsection one of this section the total amount payable to him as pension (being the amount payable pursuant to that subsection and any amounts payable pursuant to section nine of this Act) shall be reduced by the average weekly amount which he earns or which the Tribunal finds he might reasonably earn from available employment (not being relief work) not inconsistent either in itself or by reason of the conditions under which it is performed with the maintenance of his health in either of the following cases, that is to say—

- (a) where the pension is awarded on the ground of partial incapacity; or
- 30 (b) where the pension was awarded on the ground of total incapacity and subsequently thereto he has so far recovered as to be fit for employment of the character referred to in the foregoing provisions of this subsection.

35 8. (1) Notwithstanding anything in this Part the Tribunal may award a pension to any mine worker even though he may not possess the qualifications required by any other provision of this Part where the Tribunal is satisfied that the granting of such a pension would not be Hard luck cases.

40 inconsistent with the general scope and purpose of this Part

*Coal and Oil Shale Mine Workers (Pensions).*

Part and that, having regard to all the circumstances of the particular case, it is just and equitable to award a pension to such mine worker.

(2) Where the Tribunal awards a pension under subsection one of this section it shall determine, having regard to the matters referred to in that subsection, whether the rate of pension shall be two pounds per week or one pound ten shillings per week.

9. (1) Where a mine worker becomes eligible for a pension under section six, section seven or section eight of this Act, he shall also be eligible for an addition to such pension consisting of the following amounts—

Pensions—  
additional  
payments in  
respect of  
dependants.

(a) an amount of one pound per week in respect of his wife, which amount shall be payable until her death or until she ceases to be his wife;

(b) an amount of eight shillings and six pence per week in respect of each child (whether legitimate or illegitimate) and step-child under the age of sixteen years who is totally or mainly dependent on his earnings, which amount shall be payable until such child shall attain the age of sixteen years;

(c) where no amount is payable under paragraph (a) of this subsection, an amount of one pound per week in respect of one female who is totally or mainly dependent on his earnings, which amount shall be payable until her death or marriage or until she ceases to be such a dependant:

Provided that no amount shall be paid under this paragraph unless the female in respect of whom such weekly payment is claimed—

(i) is an adult and is caring for any child or stepchild of the mine worker under the age of sixteen years; or

(ii) is a member of the mine worker's family and is over the age of sixteen years;

(d) where no amount is payable under paragraph (b) of this subsection an amount of eight shillings and sixpence per week in respect of each brother and sister under the age of sixteen years

*Coal and Oil Shale Mine Workers (Pensions).*

years who is totally or mainly dependent on his earnings, which amount shall be payable until such brother or sister shall attain the age of sixteen years.

5 (2) Notwithstanding anything in subsection one of this section the Tribunal may award or continue a pension under paragraph (b) or paragraph (d) of that subsection in respect of any child who has attained the age of sixteen years if by reason of any physical or mental  
10 defect such child is totally incapacitated from earning a living.

(3) Notwithstanding anything in any other provision of this section the Tribunal may, if in the circumstances of any case it thinks fit so to do, regard as a  
15 child within the meaning of this section any child, who, though not within the relationships mentioned in this section, is maintained as a member of the family of a mine worker.

(4) Where any amount is paid under this Part in  
20 respect of any child under sixteen years of age, the Tribunal may in its discretion, for the purpose of assisting in the further education of the child, continue the pension for such period as it thinks fit not exceeding two years after the child has attained the age of sixteen years.

25 **10.** (1) Upon the death of—

(a) a person who has been awarded a pension pursuant to section six, section seven or section eight of this Act; or

30 (b) 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 intentional self-inflicted injury),

the widow of such person or mine worker or the female in respect of whom such person or mine  
35 worker, if he had remained alive, would have been entitled to an addition to his pension under paragraph (c) of subsection one of section nine of this Act, shall be eligible for a pension of one pound ten shillings per week, which shall be payable until the death,  
40 remarriage or marriage of such widow or female, as the case may be, and the persons referred to in paragraphs

Pension payable to dependants.

(b)

*Coal and Oil Shale Mine Workers (Pensions).*

(b) and (d) of subsection one and in subsections two, three and four of section nine of this Act shall also be eligible for pensions of an amount equal to the amounts referred to in those paragraphs and subsections and for  
5 the periods specified in those paragraphs and subsections.

(2) Except as provided in subsection three of this section no person who is eligible for a pension under subsection one of this section (in this section hereinafter referred to as a "dependant"), shall be entitled to a  
10 pension under this Act as well as compensation under the Workers' Compensation Act, 1926-1938.

(3) Where either before or after the commencement of this Part the mine worker upon whose death the dependant is eligible for a pension under subsection  
15 one of this section had, during his lifetime made a claim against his employer for compensation under the Workers' Compensation Act, 1926-1938, in respect of the injury or where, either before or after the commencement of this Part, the dependant has received or is in receipt  
20 of or would, upon application, be entitled to compensation under that Act in respect of the death of the mine worker, the following provisions shall have effect:—

cf. Act No.  
30, 1912,  
s. 100b (5).

(a) Where the mine worker had elected, pursuant to section sixteen of the Workers' Compensation Act, 1926-1938, to accept an amount payable in accordance with the table to that section, or had, pursuant to section fifteen of that Act, received a lump sum in redemption of weekly payments the disqualification under subsection two of this section shall cease to have effect on the  
25 expiration of a period ascertained as follows:—  
30

The period shall be the period during which, if a pension had been awarded and paid to the mine worker as from the date upon which compensation became payable, the total sum paid to him by way of pension at the appropriate rate (including any additional amounts in  
35 respect

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

respect of dependants) would have been equal to the amount payable in accordance with the said table or the amount of the lump sum as the case may be.

- 5 (b) Where the amount of compensation payable under the Workers' Compensation Act, 1926-1938, in respect of the death of the mine worker has been paid into the office of the Workers' Commission the disqualification under subsection two of this section shall cease to have effect on the expiration of a period ascertained as follows:—
- 10

15 The period shall be the period during which, if pensions had been awarded and paid to the dependants, the total sum paid to all the dependants by way of pension would have been equal to the amount of compensation.

- 20 (c) Where the dependants or any of them who are eligible for pensions under subsection one of this section would, upon application, be entitled to compensation under the Workers' Compensation Act, 1926-1938, the disqualification under subsection two of this section shall continue until such time as the application is made, and thereafter until such disqualification ceases to have effect pursuant to paragraph (b) of this subsection.
- 25

- 30 **11.** (1) Where a mine worker becomes eligible for a pension pursuant to section six, section seven or section eight of this Act the pension shall, subject to this Act, be payable to him until his death. Pensions—special provisions.

(2) No mine worker shall be paid more than one pension under this Act.

- 35 (3) The total amount payable to any mine worker by way of pension (including all additions for which he may be eligible under section nine of this Act) shall not exceed the sum of four pounds five shillings and sixpence per week.

(4)



---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(4) All pensions payable under this Part shall vary to accord with fluctuations in the total sum which comprises the needs basic wage assessed on the index number for the weighted average of the five towns of New South Wales together with the fixed loading addition applicable to the needs basic wage so assessed.

For the purpose of calculating any such variation the amounts specified in sections six to ten, both inclusive, of this Act shall be deemed to have been fixed by reference to the total sum which comprised the needs basic wage so assessed and in force at the commencement of this Part together with the fixed loading addition applicable thereto.

Any such variation shall be calculated to the nearest sixpence.

**12.** (1) Except as provided in this section no mine worker shall be entitled to a pension under any provision of this Part, as well as compensation under the Workers' Compensation Act, 1926-1938.

No pension while compensation payable.

(2) Where either before or after the commencement of this Part a mine worker has received, or is in receipt of or would, upon application, be entitled to compensation under the Workers' Compensation Act, 1926-1938, the following provisions shall have effect:—

(a) Where a mine worker accepts or has accepted weekly payments of compensation under that Act the disqualification under subsection one of this section shall cease to have effect on the day upon which his right to such weekly payments ceases.

(b) Where the mine worker 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 pursuant to section fifteen of that Act, receives or has received a lump sum in redemption of weekly payments, the disqualification under subsection one of this section shall cease

*Coal and Oil Shale Mine Workers (Pensions).*

cease to have effect on the expiration of a period ascertained as follows:—

5 The period shall be the period during which, if a pension had been awarded and paid as from the date upon which compensation became payable, the total sum paid to the mine worker as pension (including any additional amounts in respect of dependants) would have been equal to the amount payable in accordance with the said table or the amount of the lump sum, as the case may be.

10 (c) Where the mine worker would, upon application, be entitled to compensation under the Workers' Compensation Act, 1926-1938, the disqualification under subsection one of this section shall continue until such time as he makes the application and thereafter until such disqualification ceases to have effect pursuant to paragraph (a) or paragraph (b) of this subsection.

20 **13.** (1) Any amount which a mine worker or his dependants has or have received, or upon application is or are entitled to receive from any invalid, old-age or war pension or as endowment under the Child Endowment Act 1941 of the Parliament of the Commonwealth or under the Widows' Pensions Act, 1925-1937, as amended by subsequent Acts, or, in the case of a permanently incapacitated mine worker under sixty years of age, from earnings derived or which might be derived from available employment of the nature referred to in subsection two of section seven of this Act in respect of any period for which a pension is payable under this Act, shall be deducted from the amount payable to him or them, as the case may be, as a pension under this Act.

Deductions  
from  
pensions.

25 (2) The Widows' Pensions Act, 1925-1937, as amended by subsequent Acts, is amended by inserting at the end of subsection one of section fifteen the following word and new paragraph:—

Amendment  
of Act No.  
23, 1925,  
s. 15.

30 nor  
40 (c) any pension payable to her or to any of her children pursuant to the Coal and Oil Shale Mine Workers (Pensions) Act, 1941.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- 14.** (1) Every application for a pension— Applications for pensions.
- (a) shall be in or to the effect of the prescribed form;
- (b) shall contain such particulars as may be prescribed;
- (c) shall be verified as prescribed;
- (d) shall be lodged with or forwarded to the Registrar.
- (2) Upon receipt of any such application the Registrar shall make or cause to be made such investigations as appear to him desirable or as may be directed, either generally or in any particular case, by the Chairman or by the Tribunal. cf. Invalid and Old-Age Pension Act 1908-1935 (Commonwealth), s. 28 (1).
- (3) Upon completion of his investigations the Registrar shall submit the application together with a full report of the result of his investigations to the Tribunal. cf. *Ibid.* s. 29 (1).
- (4) The Tribunal shall thereupon consider the application and the report. cf. *Ibid.* s. 33 (2) and (3).
- (5) The Tribunal may allow or disallow the application or may refer the application to the Workers' Compensation Commission.
- (6) The Workers' Compensation Commission shall have jurisdiction to hear and determine any application referred to it under this section.
- (7) The power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926-1938, shall extend to the making of rules for regulating the procedure and practice of such Commission in dealing with applications referred to it under this section and for prescribing all matters which are necessary or convenient to be prescribed by such rules in relation to the exercise of the jurisdiction conferred upon that Commission by this section.
- (8) The decision of the Workers' Compensation Commission on any application referred to it under this section shall be final and conclusive and shall be binding upon the applicant and the Tribunal.

(9)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(9) Where the Tribunal allows the application it shall, in its determination, specify the rate of pension (including any additional amounts) awarded, and the date (whether before or after the date of the application) as  
5 from which the pension is to be payable.

(10) Where the Tribunal refers the application to the Workers' Compensation Commission that Commission shall, in its determination, specify the rate of pension (including additional amounts) awarded, and the date  
10 (whether before or after the date of the application) as from which the pension is to be payable.

Any such determination shall be embodied in an order and a copy thereof shall be lodged with the Registrar and filed by him with the records of the Tribunal.

15

## PART III.

## THE TRIBUNAL.

**15.** (1) There shall be a Pensions Tribunal which shall exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the  
20 Tribunal by this Act and the regulations. The  
Tribunal.

(2) The Tribunal shall consist of five members who shall be appointed by the Governor.

(3) Of the members so appointed—

25 (a) one shall be appointed on the nomination of the Minister and shall, in and by the instrument of appointment, be appointed Chairman of the Tribunal;

30 (b) one shall be appointed on the nomination of organisations of the owners of coal mines in New South Wales and shall be representative of such owners;

35 (c) one shall be appointed on the nomination of organisations of the owners of oil shale mines in New South Wales and shall be representative of such owners;

(d)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(d) one shall be appointed on the nomination of the mining unions and shall be representative of the employees in the coal mining industries of New South Wales;

5 (e) one shall be appointed on the nomination of the mining unions and shall be representative of the employees in the oil shale mining industries of New South Wales.

In this subsection the expression "mining union" means an industrial or trade union of employees or an association of employees registered as an organisation under the Commonwealth Conciliation and Arbitration Act 1904-1934, of the Parliament of the Commonwealth of which union or organisation the membership is comprised of or includes mine workers.

(4) Every nomination shall be made as prescribed and shall be sufficient if made by such organisations of the owners or such of the unions concerned as the Minister deems sufficient.

20 (5) If no person, or no person able and willing to act as a member of the Tribunal is, within the time prescribed, nominated as the representative of any of the classes of persons referred to in subsection three of this section, the member of the Tribunal representative of such class may be appointed on the nomination of the Minister.

(6) At any meeting of the Tribunal if the question or matter to be considered is—

30 (a) solely in connection with the coal mining industry or the Coal Mine Workers' Pensions Fund only the Chairman and the two members of the Tribunal representative of the owners of coal mines and of the employees in the coal mining industry shall be entitled to vote;

35 (b) solely in connection with the oil shale mining industry or the Oil Shale Mine Workers' Pensions Fund only the Chairman and the two members of the Tribunal representative of the owners of oil shale mines and of the employees in the oil shale mining industry shall be entitled to vote;

40

(c).

*Coal and Oil Shale Mine Workers (Pensions).*

(c) of a general nature all five members of the Tribunal shall be entitled to vote.

Any question or matter shall be decided by a majority of the members present and entitled to vote, and the  
5 decision so arrived at shall be the decision of the Tribunal.

(7) At any meeting of the Tribunal if the question or matter before the Tribunal is—

10 (a) solely in connection with the coal mining industry or the Coal Mine Workers' Pensions Fund, any two of the members entitled to vote at such meeting shall form a quorum;

15 (b) solely in connection with the oil shale mining industry or the Oil Shale Mine Workers' Pensions Fund, any two of the members entitled to vote at such meeting shall form a quorum;

20 (c) of a general nature any three members (of whom at least one shall be representative of the interests referred to in paragraphs (b) and (c) of subsection three of this section, and at least one shall be representative of the interests referred to in paragraphs (d) and (e) of that subsection) shall form a quorum.

25 Any meeting at which a quorum is present shall be competent to transact any business of the Tribunal.

(8) (a) The member appointed Chairman of the Tribunal shall, subject to this Act, hold office as such for a period of six years and shall be eligible for re-appointment.

30 (b) The members of the Tribunal other than the Chairman shall, subject to this Act, hold office as such for a period of three years and shall be eligible for re-appointment.

35 (9) The office of a member of the Tribunal shall become vacant if he—

(a) resigns his office by writing under his hand addressed to the Governor;

40 (b) without the permission of the Tribunal or the Chairman fails to attend three consecutive meetings of the Tribunal at which he is entitled to vote;

(c)

*Coal and Oil Shale Mine Workers (Pensions).*

- (c) is removed from office by the Governor for misbehaviour or incompetence;
- (d) becomes bankrupt or assigns his estate for the benefit of his creditors;
- 5 (e) is convicted of a felony or misdemeanour;
- (f) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898.

(10) On the occurrence of any vacancy in the office of a member of the Tribunal the person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.

(11) No act or proceeding of the Tribunal shall be invalidated or prejudiced by reason only of the fact that at the time such act or proceeding is done, taken or commenced there is a vacancy in the office of any member.

(12) (a) The Chairman of the Tribunal shall be entitled to receive such remuneration, whether by way of annual salary or by way of fees for meetings attended, as the Governor may determine.

(b) The members of the Tribunal other than the Chairman shall be entitled to receive such remuneration by way of fees for meetings attended as the Governor may determine.

(c) The members of the Tribunal shall be entitled to receive travelling expenses at such rate as the Governor may determine.

(13) The office of Chairman or of member of the Tribunal shall not for the purposes of the Constitution Act, 1902, or of any Act amending that Act, be deemed to be an office or place of profit under the Crown.

16. (1) The Governor may, under and subject to the Public Service Act, 1902, as amended by subsequent Acts, appoint a Registrar and such officers and employees as may be necessary for the administration of this Act.

(2) The Registrar shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the Registrar by or under this Act.

*Coal and Oil Shale Mine Workers (Pensions).*

**17.** (1) The Tribunal, or the Chairman or the Registrar, may, for the purposes of any inquiry or investigation which it or he is authorised to make—

- (a) summon witnesses;
- 5 (b) receive evidence on oath; and
- (c) require the production of documents.

(2) A person who has been lawfully summoned to appear before the Tribunal, the Chairman or the Registrar, shall not fail to appear, and a person who

10 appears, whether summoned or not, shall not—

- (a) refuse to be sworn as a witness;
- (b) fail to answer any question he is lawfully required to answer; or
- 15 (c) fail to produce any document he is lawfully required to produce.

(3) Any person who neglects or fails to comply with any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding fifty pounds.

Powers of Tribunal in respect of inquiries and investigations.

cf. Child Endowment Act 1941 (Commonwealth), s. 11.

20

## PART IV.

## FUNDS AND CONTRIBUTIONS.

**18.** (1) There shall be established under this Act two funds to be known respectively as the Coal Mine Workers' Pensions Fund and the Oil Shale Mine Workers' Pensions Fund.

25

(2) (a) The Coal Mine Workers' Pensions Fund shall consist of such moneys as are required or authorised by this Act to be paid into that Fund.

(b) There shall be payable out of the Coal Mine Workers' Pensions Fund all pensions payable to mine workers or to the dependants of mine workers who were employed or engaged in the coal mining industry and to mine workers or the dependants of mine workers who, in the opinion of the Tribunal, were engaged in

30 work associated with that industry.

35

(3)



*Coal and Oil Shale Mine Workers (Pensions).*

(3) (a) The Oil Shale Mine Workers' Pensions Fund shall consist of such moneys as are required or authorised by this Act to be paid into that Fund.

(b) There shall be payable out of the Oil Shale Mine Workers' Pensions Fund all pensions payable to mine workers or the dependants of mine workers who were employed or engaged in the oil shale mining industry and to mine workers or the dependants of mine workers who, in the opinion of the Tribunal, were engaged in work associated with that industry.

(4) The expenses involved in the administration of this Act shall be paid out of the Funds in such proportions as the Tribunal may determine.

(5) The Funds shall be under the control of the Tribunal and shall be operated upon in the manner prescribed.

(6) Any moneys in either of such Funds which are not immediately required for the purposes of that Fund may be invested by the Tribunal in any manner in which trustees are for the time being authorised to invest trust funds.

Any interest from time to time accruing from any such investment shall be paid into the Fund the moneys of which are so invested.

19. (1) The Tribunal shall, as soon as practicable after the day appointed and notified for the commencement of Part II of this Act, make an estimate of the amount required by each Fund for the period commencing on the day so appointed and notified and ending on the thirtieth day of June next following 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.

The amount to be provided in that period for the reserve in connection with each Fund shall be such amount as the Governor may direct.

(2) The Tribunal shall make an estimate of the amount required by each Fund for the period of twelve months commencing on the first day of July next following the expiration of the period referred to in subsection one

Contributions.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

one of this section, and thereafter for each succeeding 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  
5 Fund.

The amount to be provided in any year for the reserve in connection with each Fund shall be such amount as the Governor may direct.

Each estimate made under this subsection shall be  
10 made not later than the thirty-first day of March next preceding the commencement of the period to which the estimate relates.

(3) (a) A sum equivalent to one-fourth of the total of the amounts estimated by the Tribunal pursuant to subsection one or subsection two of this section or the sum of eighty thousand pounds whichever is the less shall be paid by the Colonial Treasurer to the  
15 Tribunal, and shall be apportioned between the respective funds in such proportions as the Colonial Treasurer may direct or, if no such direction is given, as the Tribunal  
20 may determine.

(b) The balance of the amount so estimated by the Tribunal in respect of each fund shall be paid to the Tribunal—

25 (i) as to one-third part thereof by the mine workers;  
(ii) as to two-third parts thereof by the owners.

(4) Any moneys payable by the Colonial Treasurer under this section shall be paid out of moneys provided by Parliament.

30 (5) The moneys payable by the owners under this section shall be paid in such manner and at such times as may be prescribed.

Without prejudice to the generality of the foregoing provisions of this subsection regulations may prescribe  
35 the basis or bases upon which the contributions of individual owners may be assessed.

(6) The moneys payable by the mine workers under this section shall be paid in such manner and at such times as may be prescribed.

40 Without prejudice to the generality of the foregoing provisions of this subsection the regulations may prescribe

*Coal and Oil Shale Mine Workers (Pensions).*

prescribe the basis or bases upon which the contributions of individual mine workers are to be assessed, and may provide for the collection (by deduction from wages or otherwise) and payment to the Tribunal by the employers of mine workers of any such contributions.

## PART V.

## MISCELLANEOUS.

**20.** (1) Subject to this Act, a pension shall be absolutely inalienable, whether by way or in consequence of sale, assignment, charge, execution, insolvency, or otherwise howsoever:

Pensions to be inalienable.

Provided that nothing herein shall be construed to prevent the Tribunal, with or without the consent of the pensioner, from paying the whole or any portion of the pension to any other person for the use of the pensioner or in satisfaction to the extent thereof of any of his just debts or liabilities.

(2) Every person commits an offence and shall be liable to a penalty not exceeding fifty pounds who demands or accepts from any pensioner under this Act any certificate or any acknowledgment or undertaking that would constitute a legal or equitable assignment of or charge upon any pension under this Act if such pension were capable of being legally assigned or charged.

**25** **21.** (1) Where any mine worker who has been awarded a pension pursuant to this Act is sentenced to imprisonment for any period in excess of one month, his pension rights pursuant to this Act shall be suspended during the period of such imprisonment, and any person who would, if the mine worker were dead, have been eligible for a pension under section ten of this Act, shall be eligible for a pension in accordance with that section during the period of such imprisonment as if the mine worker were dead.

Suspension of pension rights in certain events—alternative pensions to dependants.

**35** (2) Where any mine worker who is eligible for or who has been awarded a pension pursuant to this Act becomes an insane patient within the meaning of the Lunacy

*Coal and Oil Shale Mine Workers (Pensions).*

Lunacy Act of 1898, as amended, his pension rights pursuant to this Act shall be suspended while he continues to be such an insane patient, and any person who would, if the mine worker were dead, have been eligible for a pension under section ten of this Act, shall be eligible for a pension in accordance with that section during the period for which the mine worker continues to be an insane patient as if the mine worker were dead, and shall be entitled to retain the whole of the said pension for his own use and benefit absolutely the provisions of any other Act notwithstanding.

(3) The wife of any mine worker eligible for or in receipt of a pension under this Act who has been deserted by her husband or who has been left by him without means of support and who satisfies the Tribunal—

- (a) that she has taken proceedings against her husband for an order under the Deserted Wives and Children Act, 1901-1931, and either that she has failed to obtain an order or that the order, if made, has not been complied with; and
- (b) that the whereabouts of her husband are not known,

shall be eligible for a pension in accordance with section ten of this Act, as if the mine worker were dead, during the period for which she is so deserted or left without means of support.

Where a pension is awarded to a deserted wife pursuant to this subsection the Tribunal may suspend the pension payable to the mine worker or may direct that such pension is to be reduced by the amount of the pension payable to the deserted wife.

**22.** Where a person entitled to payment of a pension under this Act is for any cause unable to give a valid receipt for such payment the Tribunal or the Chairman may direct that payment be made to some person on his behalf, and the receipt of such person for any payment so made shall be a valid discharge.

Appoint-  
ment of  
person to  
receive  
pension.

**23.** (1) The Minister may refer any question arising under this Act to the Industrial Commission of New South Wales.

References to  
Industrial Com-  
mission of New  
South Wales.

*Coal and Oil Shale Mine Workers (Pensions).*

(2) The Industrial Commission of New South Wales shall, for the purpose of hearing and determining any question referred to it under this section, be constituted by a full bench of three judges.

5 All persons interested and appearing before the Industrial Commission of New South Wales, including the Minister and the Tribunal, shall be entitled to be heard.

(3) The power to make regulations conferred by the Industrial Arbitration Act, 1940, shall extend to the  
 10 making of regulations for regulating the procedure to be followed in proceedings before the Industrial Commission of New South Wales arising under and pursuant to this section and for prescribing all matters which are  
 15 necessary or convenient to be prescribed by such regulations in relation to the exercise or discharge of the functions of that Commission under this section.

**24.** (1) Any part of the contributions required to be paid by section nineteen of this Act that is not paid on the due date and all penalties incurred in respect  
 20 thereof shall constitute a debt due and payable to the Crown, and shall be recoverable in any court of competent jurisdiction by the Chairman of the Tribunal on behalf of the Crown by suit in his official name.

Unpaid contributions recoverable as debt.

(2) If in any proceedings against any person for  
 25 failure to pay any contribution payable under section nineteen of this Act within the time prescribed the defendant alleges that he is exempt from the obligation to pay the contribution, or that he has paid the contribution, the burden of proving such exemption or payment  
 30 shall be on him.

**25.** (1) Where it is found that any pension or instalment of a pension which is not payable has been paid or that any sum paid by way of pension or instalment of pension is in excess of the amount so payable, the amount  
 35 wrongly paid may be recovered as a debt due to the Crown at the suit of the Chairman of the Tribunal in his official name, or, where it is practicable so to do, the Tribunal may make any necessary adjustments in any instalments of the same or any other pension thereafter  
 40 becoming payable.

Recovery of over-payments of pensions.

*Coal and Oil Shale Mine Workers (Pensions).*

(2) Nothing in this section shall relieve the person wrongly receiving any such payment from any other liability in respect of any fraud committed by him.

**26.** (1) The Tribunal shall cause to be kept proper  
5 books of account, and shall, as soon as practicable after  
the thirtieth day of June in each year, prepare and  
transmit to the Minister for presentation to Parliament  
statements of accounts in a form approved by the  
Auditor-General, exhibiting a true and correct view of  
10 the financial position and transactions of the Tribunal.

Accounts  
and  
audit.

(2) The accounts of the Tribunal shall be audited  
by the Auditor-General, who shall have, in respect  
thereof, all the powers conferred on the Auditor-General  
by any law now or hereafter to be in force relating to  
15 the audit of public accounts; and the Audit Act, 1902,  
and Acts amending the same, shall apply to the Tribunal,  
the members of the Tribunal, and the officers and  
employees concerned in the administration of this Act  
in the same manner as it applies to accounting officers  
20 of public departments.

**27.** The Minister shall once in every three years, and  
may at such other times as he thinks fit, cause an exami-  
nation and report to be made by an actuary appointed  
by him, upon the assets and liabilities of each of the  
25 funds established under section eighteen of this Act.

Actuarial  
investiga-  
tion of  
funds.

**28.** For the purpose of providing for the require-  
ments of the funds established under section eighteen of  
this Act the Colonial Treasurer may, in and for any  
period in respect of which a contribution is payable by  
30 him under section nineteen of this Act, make advances  
against the contribution payable by him in respect of  
that period, to either or both of the funds of such amount  
or amounts (not exceeding in the aggregate the amount  
of the contribution) as may in his opinion be necessary.  
35 Any such advance shall be in satisfaction in whole or  
in part of the contribution so payable in respect of that  
period.

Advances by  
Treasury.

**29.** (1) Any person who, for the purpose of obtaining  
any pension under this Act, for himself or for any other  
40 person, or for the purpose of obtaining exemption from  
any obligation under this Act, for himself or for any  
other

Offences.

*Coal and Oil Shale Mine Workers (Pensions).*

other person, makes any false statement to or otherwise misleads or attempts to mislead the Tribunal, the Registrar or any officer concerned in the administration of this Act or the Workers' Compensation Commission of New  
 5 South Wales or any other person whomsoever or otherwise commits any fraudulent act or omission, shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for twelve months.

10 (2) Where a person is convicted of an offence under subsection one of this section and it is made to appear that, in consequence of such offence he was wrongly paid any amount by way of pension, the Court may, in addition to the penalty or punishment referred to  
 15 in that subsection, impose a penalty or additional penalty not exceeding twice the amount so wrongly paid.

30. (1) Any penalty imposed by or under this Act or the regulations may be recovered in a summary manner before a stipendiary or police magistrate, or any two  
 20 justices in petty sessions.

(2) Any magistrate or justices may in any proceedings for a penalty under this Act or the regulations make such order as to the payment of costs as may be thought just, and may assess the amount of such costs.

25 31. All fines and penalties paid or recovered under this Act or the regulations shall be paid to the Tribunal and shall be paid by it into such of the funds as the Tribunal may think fit having regard to the offence in respect of which the fine or penalty was imposed.

30 32. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

35 (2) In particular and without prejudice to the generality of subsection one of this section the regulations may—

40 (a) prescribe the manner and form of claims for pensions, the persons by whom claims may be made, and the particulars to be furnished in support of such claims;

2—c

(b)

Recovery  
of penal-  
ties.Fines and  
penalties  
to be paid  
into appro-  
priate Fund.Regula-  
tions.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- 5 (b) prescribe the general conditions governing the allowance of pensions, and the manner in which such allowance is to be signified or evidenced;
- (c) prescribe the general conditions governing the payment of pensions and the manner in which and times at which payment is to be made;
- 10 (d) make provision for the repayment of contributions or part thereof to contributors in such cases (if any) and subject to such conditions as may be prescribed;
- 15 (e) require employers of mine workers to keep records in such manner or in such form as may be prescribed, showing the commencement and cessation of the employment of each mine worker and such other particulars as may be prescribed.

(3) The regulations may impose a penalty not exceeding ten pounds for any breach of the regulations.

- 20 (4) Any regulations made under this Act shall—
- (a) be published in the Gazette;
- (b) take effect from the date of publication, or from a later date to be specified in the regulations; and
- 25 (c) be laid before both Houses of Parliament within fourteen sitting days after publication, if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

30 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof such regulation or part shall thereupon cease to have effect.



No. , 1941. ,

---

## A BILL

To prohibit the employment and the continuance in employment in the coal or oil shale mining industries, and in certain callings related thereto, of certain persons of or above the age of sixty years; to make provision for and with respect to the payment of pensions to such persons and certain other persons; to amend the Widows' Pensions Act, 1925-1937, and certain other Acts; and for purposes connected therewith.

[MR. BADDELEY;—6 August, 1941.]

---

**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:—

### PART I.

#### PRELIMINARY.

**1.** (1) This Act may be cited as the "Coal and Oil Shale Mine Workers (Pensions) Act, 1941."

Short title,  
commencement  
and construction.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY—ss. 1-4.

PART II.—COMPULSORY RETIREMENT AND PENSIONS—  
ss. 5-14.

5 PART III.—THE TRIBUNAL—ss. 15-17.

PART IV.—FUNDS AND CONTRIBUTIONS—ss. 18, 19.

PART V.—MISCELLANEOUS—ss. 20-32.

(3) (a) Parts I and V of this Act shall commence  
on the day upon which the assent of His Majesty to this  
10 Act is signified.

(b) Parts II, III and IV of this Act shall com-  
mence upon such day or days as may be appointed by the  
Governor and notified by proclamation published in the  
Gazette.

15 A different day may be so appointed and notified in  
respect of any of such Parts.

(4) This Act shall be read and construed subject  
to the Commonwealth of Australia Constitution Act and  
so as not to exceed the legislative power of the State to  
20 the intent that where any provision of this Act or of the  
regulations or the application thereof to any person or  
circumstance is held invalid, the remainder of this Act  
or of such regulations and the application of such pro-  
vision to other persons or circumstances shall not be  
25 affected.

(5) This Act shall be read and construed with the  
Coal Mines Regulation Act, 1912, as amended by subse-  
quent Acts.

2. (1) In this Act, unless the context or subject-matter Definitions.  
30 otherwise indicates or requires,—

“Injury” has the meaning given to that expression  
in the Workers’ Compensation Act, 1926, as  
amended by subsequent Acts.

“Mine worker” means—

35 (a) a person who is employed (whether  
underground or above ground) in or  
about a coal or oil shale mine in New  
South Wales by the owner of the mine;

(b)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- 5 (b) a person who was, at any time after the first day of January, one thousand nine hundred and twenty-eight, engaged in the coal or oil shale mining industries in New South Wales;
- 10 (c) a person who has, at any time after the first day of February, one thousand nine hundred and thirty, and before the commencement of this Act, become permanently incapacitated by injury arising out of and in the course of his employment (whether underground or above ground) in or about a coal or oil shale mine in New South Wales;
- 15 (d) a person (including a permit manager) working (whether underground or above ground) in or about a small mine in New South Wales;
- 20 (e) 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, is principally engaged in the transport of coal or oil shale from the mine to the point of delivery by the owner; and for the purposes of this
- 25 paragraph "point of delivery" means the place at which coal or oil shale is delivered by the owner of the mine to any railway of the Commissioner for
- 30 Railways, or to the South Maitland Railway, or to any wharf or other place appointed for the purpose, and includes, in any case where process works are carried on by the owner of the mine,
- 35 the place at which coal or oil shale is delivered at such works;
- (f) a check-weigher or district check inspector;
- (g)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- (g) a member of a permanent rescue corps established at a central rescue station pursuant to the Mines Rescue Act, 1925;
- 5 (h) an elected official of an industrial or trade union of employees, or of an association of employees registered as an organisation under the Commonwealth Conciliation and Arbitration Act 1904-1934 of the Parliament of the Commonwealth, of which union or organisation the membership is principally confined to persons falling within any one or more of the classes referred to in paragraphs (a) to (g) of this definition:
- 10
- 15 Provided that (subject to subsection four of this section) the expression "mine worker" shall not include—
- (i) a superintendent, manager, or under manager;
- 20 (ii) the official known as the colliery engineer and the official appointed as mine electrician pursuant to section twenty-two of the Coal Mines Regulation Act, 1912, as amended by subsequent Acts;
- 25 (iii) a person engaged in clerical work in connection with a coal or oil shale mine;
- (iv) a person (other than a person of the class referred to in paragraph (e) of this definition) employed in or in connection with the oil shale industry whose work does not relate to the mining of oil shale;
- 30
- (v) a coke worker;
- 35 (vi) a superintendent or an instructor appointed pursuant to the Mines Rescue Act, 1925.

40 "Ownēr" has the meaning given to that expression in the Coal Mines Regulation Act, 1912, as amended by subsequent Acts.

"Pension"

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

“Pension” means a pension payable under this Act and includes any amounts payable as an addition to a pension.

5 “Prescribed” means prescribed by this Act or the regulations.

“Regulations” means regulations made under this Act.

“Tribunal” means the Pensions Tribunal constituted under this Act.

10 (2) A person shall, for the purposes of this Act, be deemed to be “engaged in the coal or oil shale mining industries”—

(a) for any period (whether before or after the commencement of Part II of this Act) during which he is employed as a mine worker;

(b) for any period (whether before or after the commencement of Part II of this Act) during which he is unemployed, if, immediately before the date upon which he so became unemployed—

20 (i) he was employed (whether underground or above ground) in or about a coal or oil shale mine in New South Wales by the owner of the mine; or

25 (ii) he was a member of a permanent rescue corps established at a central rescue station pursuant to the Mines Rescue Act, 1925:

30 Provided that a person shall not be deemed to be “engaged in the coal or oil shale mining industries” by reason of the operation of paragraph (b) of this subsection unless he satisfies the Tribunal that his employment was terminated otherwise than for misconduct and that his failure to obtain other employment was through no fault on his part:

35 Provided further that the period for which any such person is unemployed shall be deemed not to be interrupted by periods during which he is employed upon relief work or upon other work of a casual nature.

40

(3)

*Coal and Oil Shale Mine Workers (Pensions).*

(3) A reference in any provision of this Act to the "date of retirement" shall, in the application of that provision to or in respect of any particular mine worker, be construed as a reference to the date on and after  
 5 which the employment of that mine worker as a mine worker would be an offence under section five of this Act.

(4) (a) The Governor may, by proclamation published in the Gazette, extend the definition of "mine  
 10 worker" to include any one or more of the classes of persons referred to in the proviso to that definition.

Any such proclamation shall take effect as from the date of the publication thereof in the Gazette or from a later date to be specified in the proclamation.

15 As from the date upon which any such proclamation takes effect the provisions of this Act shall (subject to any modification which may be made pursuant to paragraph (b) of this subsection) apply to and in respect of persons who are members of the class to which the  
 20 proclamation relates.

(b) In any proclamation published pursuant to paragraph (a) of this subsection the Governor may, if he thinks fit, specify an age (being later than the age of sixty years) which shall be the retiring age of persons  
 25 who are members of the class to which the proclamation relates.

Where a retiring age is so specified the provisions of this Act, in their application to and in respect of persons who are members of such class, shall be deemed to be  
 30 modified to the extent following, that is to say—section five of this Act shall have and take effect as if the age specified in the proclamation were substituted for the age of sixty years referred to therein, and references in this Act to the "date of retirement" shall be construed  
 35 accordingly.

**3.** (1) Any mine worker who is absent from New South Wales or from his employment upon war service, as defined in the Defence Act 1903, as amended by subsequent Acts, of the Parliament of the Commonwealth or  
 40 upon any kind of work or service in connection with any war in which Australia is, for the time being, engaged, shall

Special provisions as to calculation of periods of employment.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

shall be deemed to have been continuously resident in New South Wales and to have been employed in or about a coal or oil shale mine, as the case may be, during the period of such absence.

5 (2) Any mine worker who is lawfully absent from work on an award holiday or on annual leave or through sickness or accident not due to his own fault shall be deemed to have actually worked in or about a coal or oil shale mine, as the case may be, during the period of such  
10 absence.

(3) Continuous residence in New South Wales shall be deemed not to have been interrupted by occasional absences not exceeding in the aggregate one-tenth of the total period of residence, and for the purposes of this  
15 Act, the period of any such absence shall be counted as a period of residence in New South Wales.

(4) Any elected official of an industrial or trade union of employees or of an association of employees registered as an organisation under the Commonwealth  
20 Conciliation and Arbitration Act 1904-1934 shall, for the purposes of this Act, be deemed to have actually worked in or about a coal or oil shale mine in New South Wales or in Australia, as the case may be, for the whole of the period during which he held office as such elected official.

25 (5) Any member of a permanent rescue corps established at a central rescue station shall, for the purposes of this Act, be deemed to have actually worked in or about a coal or oil shale mine in New South Wales for the whole of the period during which he was such a  
30 member.

(6) For the purposes of this Act the work of persons of the classes referred to in paragraphs (e) and (f) of the definition of "mine worker" shall be deemed to be work in or about a coal or oil shale mine.

35 4. (1) Where the Governor is satisfied—

(a) that there is in force in any other State of the Commonwealth of Australia legislation providing for the payment of pensions to mine workers and their dependants, and that such pensions

Reciprocat-  
ing States.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

pensions are of the like amount and are awarded on the like conditions as the pensions for which provision is made in this Act; and

- 5 (b) that an agreement with such other State has been entered into under subsection two of this section,

he may, by proclamation published in the Gazette, declare such other State to be a reciprocating State for the purposes of this Act.

- 10 (2) The Minister may, for and on behalf of this State, enter into an agreement with a Minister of the Crown for such other State acting for and on behalf of such other State, with respect to all or any of the following matters:—

- 15 (a) the circumstances in which and the conditions subject to which the Tribunal will, for the purposes of this Act, regard any person who is or has been a mine worker in or is or has been engaged in the coal or oil shale mining industries of such other State, as a  
20 person who is or has been a mine worker in or is or has been engaged in the coal or oil shale mining industries of New South Wales;

- 25 (b) the circumstances in which and the conditions subject to which the Tribunal may accept and act upon a certificate furnished by the Minister of the Crown for such other State or by any specified officer of such other State that  
30 any person is or has been a mine worker in or is or has been engaged in the coal or oil shale mining industries of such other State, and the period or periods during which he has been such a worker or has been so engaged;

- 35 (c) the circumstances in which and the conditions subject to which the funds established under this Act or either of them shall be liable for the payment of the whole or any part of any pension awarded to a person of the class referred to in paragraph (a) of this subsection;

(d)



---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- 5 (d) the circumstances in which and the conditions subject to which payment may be made from the funds established under this Act, or either of them, to the corresponding funds or fund established under the legislation of such other State;
- 10 (e) the making of such provision as may be necessary to ensure that a mine worker or his dependants shall not become entitled to payment of a pension under this Act as well as under the legislation of such other State;
- (f) any adjustments which may be necessary if the proclamation declaring such other State to be a reciprocating State is revoked;
- 15 (g) any other matter arising under this Act which the Minister may consider necessary or convenient to be included in the agreement.

No agreement entered into under this subsection shall have any force or effect until the proclamation referred to in subsection one of this section has been published.

- 20 (3) The Governor may, if he thinks fit, by proclamation published in the Gazette, revoke any proclamation under subsection one of this section.

Where a proclamation is so revoked the agreement entered into under subsection two of this section shall  
25 lapse except to the extent to which it relates to the matters referred to in paragraph (f) of that subsection.

- (4) Where a proclamation declaring any other State of the Commonwealth of Australia to be a reciprocating State has been published and is still in force the  
30 provisions of this Act shall be deemed to be modified to the extent necessary to enable the agreement entered into under subsection two of this section with such other State to be carried into effect.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

## PART II.

## COMPULSORY RETIREMENT AND PENSIONS.

5 5. (1) Subject to this section no person shall take into or retain in his employment as a mine worker any person who is of or above the age of sixty years and no person of or above the age of sixty years shall accept or continue in employment as a mine worker.

Employment  
after 60  
years of age  
prohibited.

10 (2) (a) Every mine worker who is, at the commencement of this Part, employed as a mine worker, and who is, at such commencement, of or above the age of sixty years, shall be retired from and shall vacate his employment as a mine worker upon the expiration of the period of three months after such commencement.

15 (b) Every mine worker who is, at any time after the commencement of this Part, employed as a mine worker and who, whilst so employed, attains the age of sixty years, shall be retired from and shall vacate his employment as a mine worker immediately upon attaining that age:

20 Provided that any such mine worker who attains the age of sixty years at any time within the period of three months after the commencement of this Part shall be retired from and shall vacate his employment as a mine worker upon the expiration of that period.

25 (c) A person of or above the age of sixty years who is not, at the commencement of this Part, employed as a mine worker, shall not, at any time after such commencement, be employed as a mine worker.

30 (3) Any person who neglects or fails to comply with any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding fifty pounds and to a further penalty not exceeding five pounds for every day during which the offence continues.

35 (4) (a) The Tribunal may, from time to time, upon special cause being shown, suspend the operation of subsections one and two of this section in their application to and in respect of any specified employment of a specified mine worker.

Any

*Coal and Oil Shale Mine Workers (Pensions).*

Any such suspension may be made subject to such conditions (if any) as the Tribunal may impose.

Any such suspension shall be evidenced by a certificate of exemption which shall be issued by the Tribunal and  
5 shall specify the employment in respect of which the operation of those subsections is suspended, the mine worker to whom the certificate relates, the period for which the certificate is to remain in force, and the conditions (if any) subject to which the operation of those  
10 subsections is suspended.

(b) The Tribunal may, from time to time, suspend the operation of subsections one and two of this section in their application to and in respect of the employment in or about any specified mine of all mine  
15 workers, or of any specified class of mine workers or of all mine workers other than those of a specified class.

Any such suspension may be made subject to such conditions (if any) as the Tribunal may impose.

Any such suspension shall be evidenced by a certificate  
20 of exemption which shall be issued by the Tribunal and shall specify the mine to which the certificate relates and shall indicate whether the certificate relates to the employment of all mine workers or of a specified class of mine workers or of all mine workers other than those of a  
25 specified class. The certificate shall also specify the period for which the same is to remain in force, and the conditions (if any) subject to which the operation of those subsections is suspended.

(c) The employment of a mine worker after the  
30 date of retirement shall not, where such employment is under and in accordance with a certificate issued under this subsection, constitute an offence.

**6.** (1) Any mine worker who is employed as a mine worker at the commencement of this Part or at the date  
35 upon which he attains the age of sixty years, whichever is the later, or who though not so employed had, during the twelve months immediately preceding the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, actually  
40 worked as a mine worker for not less than sixty days in all during the said period of twelve months, shall be eligible,

Pensions—  
mine  
workers who  
are retired.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

eligible, as from the date of retirement, to a pension of two pounds per week if he establishes to the satisfaction of the Tribunal that—

- 5 (a) he has been continuously resident in New South Wales during the five years immediately preceding the date of retirement, and
- 10 (i) he has actually worked in or about a coal or oil shale mine in New South Wales for not less than three hundred days during the said period of five years; or
- 15 (ii) before the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, he has been engaged in the coal or oil shale mining industries in New South Wales for a period of not less than twenty years in all; or
- 20 (b) he has been resident in New South Wales for not less than five years out of the seven years immediately preceding the date of retirement; and
- 25 (i) he has actually worked in or about a coal or oil shale mine in Australia for not less than five hundred days during such period of seven years; or
- 30 (ii) before the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, he has been engaged in the coal or oil shale mining industries in New South Wales for a period of not less than twenty years in all.
- 35 (2) Any mine worker who is, at the commencement of this Part, of or above the age of sixty years and who had, during the twelve months immediately preceding such commencement, actually worked as a mine worker for not less than sixty days in all, but who is unable to satisfy the conditions contained in paragraph (a) or paragraph

*Coal and Oil Shale Mine Workers (Pensions).*

paragraph (b) of subsection one of this section, shall be eligible as from the date of retirement for a pension of one pound ten shillings per week:

5 Provided that the Tribunal shall not award a pension under this subsection to any mine worker unless, in its opinion, the employment of such mine worker was bona fide, and was not arranged solely or mainly for the purpose of enabling such mine worker to become eligible for a pension pursuant to this subsection.

10 (3) Any mine worker who, at the date of retirement, is not eligible, pursuant to subsection one or subsection two of this section, for a pension, shall be eligible, as from the date of retirement, for a pension of one pound ten shillings per week if he establishes to the  
15 satisfaction of the Tribunal—

(a) that during the ten years immediately preceding the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, he has been engaged in the  
20 coal or oil shale mining industries in New South Wales and during such period has actually worked in the coal or oil shale mining industries in New South Wales for a period of not less than six hundred days in all; or

25 (b) that before the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, he has been engaged in the coal or oil shale mining industries in New South Wales for a period of not less  
30 than twenty years in all.

7. (1) A mine worker shall, subject to this section, be eligible for a pension of two pounds per week if he proves to the satisfaction of the Tribunal—

Pension—  
permanent  
incapacity.

(a) that he has been incapacitated by injury arising out of and in the course of his employment as a  
35 mine worker, and that such incapacity arose before the commencement of this Part but after the first day of February, one thousand nine hundred and thirty, or arose after such commencement; and  
40

(b)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(b) that by reason of such incapacity he is unable to continue in employment as a mine worker; and

(c) that—

- 5 (i) in any case where the mine worker is of or above the age of sixty years, the incapacity continued until the date of his application for a pension under this section; or
- 10 (ii) in any case where the mine worker is under the age of sixty years, the incapacity is likely to be permanent:

Provided that a mine worker shall not be eligible for a pension under this subsection where the injury giving rise to the incapacity was an intentional self-inflicted injury.

cf. Act No. 15, 1926, s. 7 (3) (c).

(2) Where a mine worker is awarded a pension pursuant to subsection one of this section the total amount payable to him as pension (being the amount payable pursuant to that subsection and any amounts payable pursuant to section nine of this Act) shall be reduced by the average weekly amount which he earns or which the Tribunal finds he might reasonably earn from available employment (not being relief work) not inconsistent either in itself or by reason of the conditions under which it is performed with the maintenance of his health in either of the following cases, that is to say—

- (a) where the pension is awarded on the ground of partial incapacity; or
- 30 (b) where the pension was awarded on the ground of total incapacity and subsequently thereto he has so far recovered as to be fit for employment of the character referred to in the foregoing provisions of this subsection.

35 **8.** (1) Notwithstanding anything in this Part the Tribunal may award a pension to any mine worker even though he may not possess the qualifications required by any other provision of this Part where the Tribunal is satisfied that the granting of such a pension would not be

40 inconsistent with the general scope and purpose of this Part

Hard luck cases.

*Coal and Oil Shale Mine Workers (Pensions).*

Part and that, having regard to all the circumstances of the particular case, it is just and equitable to award a pension to such mine worker.

(2) Where the Tribunal awards a pension under subsection one of this section it shall determine, having regard to the matters referred to in that subsection, whether the rate of pension shall be two pounds per week or one pound ten shillings per week.

9. (1) Where a mine worker becomes eligible for a pension under section six, section seven or section eight of this Act, he shall also be eligible for an addition to such pension consisting of the following amounts—

Pensions—  
additional  
payments in  
respect of  
dependants.

(a) an amount of one pound per week in respect of his wife, which amount shall be payable until her death or until she ceases to be his wife;

(b) an amount of eight shillings and six pence per week in respect of each child (whether legitimate or illegitimate) and step-child under the age of sixteen years who is totally or mainly dependent on his earnings, which amount shall be payable until such child shall attain the age of sixteen years;

(c) where no amount is payable under paragraph (a) of this subsection, an amount of one pound per week in respect of one female who is totally or mainly dependent on his earnings, which amount shall be payable until her death or marriage or until she ceases to be such a dependant:

Provided that no amount shall be paid under this paragraph unless the female in respect of whom such weekly payment is claimed—

(i) is an adult and is caring for any child or stepchild of the mine worker under the age of sixteen years; or

(ii) is a member of the mine worker's family and is over the age of sixteen years;

(d) where no amount is payable under paragraph (b) of this subsection an amount of eight shillings and sixpence per week in respect of each brother and sister under the age of sixteen years

*Coal and Oil Shale Mine Workers (Pensions).*

years who is totally or mainly dependent on his earnings, which amount shall be payable until such brother or sister shall attain the age of sixteen years.

5 (2) Notwithstanding anything in subsection one of this section the Tribunal may award or continue a pension under paragraph (b) or paragraph (d) of that subsection in respect of any child who has attained the age of sixteen years if by reason of any physical or mental  
10 defect such child is totally incapacitated from earning a living.

(3) Notwithstanding anything in any other provision of this section the Tribunal may, if in the circumstances of any case it thinks fit so to do, regard as a  
15 child within the meaning of this section any child, who, though not within the relationships mentioned in this section, is maintained as a member of the family of a mine worker.

(4) Where any amount is paid under this Part in  
20 respect of any child under sixteen years of age, the Tribunal may in its discretion, for the purpose of assisting in the further education of the child, continue the pension for such period as it thinks fit not exceeding two years after the child has attained the age of sixteen years.

25 **10.** (1) Upon the death of—

(a) a person who has been awarded a pension pursuant to section six, section seven or section eight of this Act; or

30 (b) 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 intentional self-inflicted injury),

the widow of such person or mine worker or the female in respect of whom such person or mine  
35 worker, if he had remained alive, would have been entitled to an addition to his pension under paragraph (c) of subsection one of section nine of this Act, shall be eligible for a pension of one pound ten shillings per week, which shall be payable until the death,  
40 remarriage or marriage of such widow or female, as the case may be, and the persons referred to in paragraphs

Pension payable to dependants.

(b)



*Coal and Oil Shale Mine Workers (Pensions).*

(b) and (d) of subsection one and in subsections two, three and four of section nine of this Act shall also be eligible for pensions of an amount equal to the amounts referred to in those paragraphs and subsections and for  
5 the periods specified in those paragraphs and subsections.

(2) Except as provided in subsection three of this section no person who is eligible for a pension under subsection one of this section (in this section hereinafter referred to as a "dependant"), shall be entitled to a  
10 pension under this Act as well as compensation under the Workers' Compensation Act, 1926-1938.

(3) Where either before or after the commencement of this Part the mine worker upon whose death the dependant is eligible for a pension under subsection  
15 one of this section had, during his lifetime made a claim against his employer for compensation under the Workers' Compensation Act, 1926-1938, in respect of the injury or where, either before or after the commencement of this Part, the dependant has received or is in receipt  
20 of or would, upon application, be entitled to compensation under that Act in respect of the death of the mine worker, the following provisions shall have effect:—

(a) Where the mine worker had elected, pursuant to section sixteen of the Workers' Compensation Act, 1926-1938, to accept an amount payable in  
25 accordance with the table to that section, or had, pursuant to section fifteen of that Act, received a lump sum in redemption of weekly payments the disqualification under subsection two of this  
30 section shall cease to have effect on the expiration of a period ascertained as follows:—

The period shall be the period during which, if a pension had been awarded and paid to the mine worker as from the date upon which compensation became payable,  
35 the total sum paid to him by way of pension at the appropriate rate (including any additional amounts in respect of dependants) would have been equal to the amount payable in accordance  
40 with the said table or the amount of the lump sum as the case may be. (b)

*Coal and Oil Shale Mine Workers (Pensions).*

- 5 (b) Where the dependants or any of them have, pursuant to section fifteen of the Workers' Compensation Act, 1926-1938, received a lump sum in redemption of weekly payments the disqualification under subsection two of this section shall cease to have effect on the expiration of a period ascertained as follows:—
- 10       The period shall be the period during which, if pensions had been awarded and paid to the dependants, the total sum paid to all the dependants by way of pension would have been equal to the lump sum.
- 15 (c) Where the dependants or any of them accept or have accepted weekly payments of compensation under the Workers' Compensation Act, 1926-1938, the disqualification under subsection two of this section shall cease to have effect on the day upon which the right to such weekly payments ceases.
- 20 (d) Where the dependants or any of them who are eligible for pensions under subsection one of this section would, upon application, be entitled to compensation under the Workers' Compensation Act, 1926-1938, the disqualification under
- 25 subsection two of this section shall continue until such time as the application is made, and thereafter until such disqualification ceases to have effect pursuant to paragraph (b) or paragraph (c) of this subsection.
- 30 **11.** (1) Where a mine worker becomes eligible for a pension pursuant to section six, section seven or section eight of this Act the pension shall, subject to this Act, be payable to him until his death. Pensions—  
special  
provisions.
- 35 (2) No mine worker shall be paid more than one pension under this Act.
- (3) The total amount payable to any mine worker by way of pension (including all additions for which he may be eligible under section nine of this Act) shall not exceed the sum of four pounds five shillings and sixpence
- 40 per week.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(4) All pensions payable under this Part shall vary to accord with fluctuations in the total sum which comprises the needs basic wage assessed on the index number for the weighted average of the five towns of New South Wales together with the fixed loading addition applicable to the needs basic wage so assessed.

For the purpose of calculating any such variation the amounts specified in sections six to ten, both inclusive, of this Act shall be deemed to have been fixed by reference to the total sum which comprised the needs basic wage so assessed and in force at the commencement of this Part together with the fixed loading addition applicable thereto.

Any such variation shall be calculated to the nearest sixpence.

**12.** (1) Except as provided in this section no mine worker shall be entitled to a pension under any provision of this Part, as well as compensation under the Workers' Compensation Act, 1926-1938.

No pension while compensation payable.

(2) Where either before or after the commencement of this Part a mine worker has received, or is in receipt of or would, upon application, be entitled to compensation under the Workers' Compensation Act, 1926-1938, the following provisions shall have effect:—

(a) Where a mine worker accepts or has accepted weekly payments of compensation under that Act the disqualification under subsection one of this section shall cease to have effect on the day upon which his right to such weekly payments ceases.

(b) Where the mine worker 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 pursuant to section fifteen of that Act, receives or has received a lump sum in redemption of weekly payments, the disqualification under subsection one of this section shall cease

*Coal and Oil Shale Mine Workers (Pensions).*

cease to have effect on the expiration of a period ascertained as follows:—

5 The period shall be the period during which, if a pension had been awarded and paid as from the date upon which compensation became payable, the total sum paid to the mine worker as pension (including any additional amounts in respect of dependants) would have been equal to the amount payable in accordance with the said table or the amount of the lump sum, as the case may be.

10 (c) Where the mine worker would, upon application, be entitled to compensation under the Workers' Compensation Act, 1926-1938, the disqualification under subsection one of this section shall continue until such time as he makes the application and thereafter until such disqualification ceases to have effect pursuant to paragraph (a) or paragraph (b) of this subsection.

15 **13.** (1) Any amount which a mine worker or his dependants has or have received, or upon application is or are entitled to receive from any invalid, old-age or war pension or as endowment under the Child Endowment Act 1941 of the Parliament of the Commonwealth or under the Widows' Pensions Act, 1925-1937, as amended by subsequent Acts, or, in the case of a permanently incapacitated mine worker under sixty years of age, from earnings derived or which might be derived from available employment of the nature referred to in subsection two of section seven of this Act in respect of any period for which a pension is payable under this Act, shall be deducted from the amount payable to him or them, as the case may be, as a pension under this Act.

Deductions from pensions.

20 (2) The Widows' Pensions Act, 1925-1937, as amended by subsequent Acts, is amended by inserting at the end of subsection one of section fifteen the following word and new paragraph:—

Amendment of Act No. 23, 1925, s. 15.

nor  
40 (c) any pension payable to her or to any of her children pursuant to the Coal and Oil Shale Mine Workers (Pensions) Act, 1941.

**14.**

Coal and Oil Shale Mine Workers (Pensions).

- 14.** (1) Every application for a pension—
- (a) shall be in or to the effect of the prescribed form;
- 5** (b) shall contain such particulars as may be prescribed;
- (c) shall be verified as prescribed;
- (d) shall be lodged with or forwarded to the Registrar.
- (2) Upon receipt of any such application the
- 10** Registrar shall make or cause to be made such investigations as appear to him desirable or as may be directed, either generally or in any particular case, by the Chairman or by the Tribunal.
- (3) Upon completion of his investigations the
- 15** Registrar shall submit the application together with a full report of the result of his investigations to the Tribunal.
- (4) The Tribunal shall thereupon consider the application and the report.
- 20** (5) The Tribunal may allow the application or may refer the application to the Workers' Compensation Commission.
- (6) The Workers' Compensation Commission shall have jurisdiction to hear and determine any application referred to it under this section.
- 25** (7) The power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926-1938, shall extend to the making of rules for regulating the procedure and practice of such
- 30** Commission in dealing with applications referred to it under this section and for prescribing all matters which are necessary or convenient to be prescribed by such rules in relation to the exercise of the jurisdiction conferred upon that Commission by this section.
- 35** (8) The decision of the Workers' Compensation Commission on any application referred to it under this section shall be final and conclusive and shall be binding upon the applicant and the Tribunal.

Applica-  
tions for  
pensions.

cf. Invalid  
and Old-Age  
Pension Act  
1908-1935  
(Common-  
wealth),  
s. 28 (1).

cf. *Ibid.*  
s. 29 (1).

cf. *Ibid.*  
s. 33 (2)  
and (3).

(9)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(9) Where the Tribunal allows the application it shall, in its determination, specify the rate of pension (including any additional amounts) awarded, and the date (whether before or after the date of the application) as  
5 from which the pension is to be payable.

(10) Where the Tribunal refers the application to the Workers' Compensation Commission that Commission shall, in its determination, specify the rate of pension (including additional amounts) awarded, and the date  
10 (whether before or after the date of the application) as from which the pension is to be payable.

Any such determination shall be embodied in an order and a copy thereof shall be lodged with the Registrar and filed by him with the records of the Tribunal.

15

## PART III.

## THE TRIBUNAL.

**15.** (1) There shall be a Pensions Tribunal which shall exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the  
20 Tribunal by this Act and the regulations. The Tribunal.

(2) The Tribunal shall consist of five members who shall be appointed by the Governor.

(3) Of the members so appointed—

25 (a) one shall be appointed on the nomination of the Minister and shall, in and by the instrument of appointment, be appointed Chairman of the Tribunal;

30 (b) one shall be appointed on the nomination of organisations of the owners of coal mines in New South Wales and shall be representative of such owners;

35 (c) one shall be appointed on the nomination of organisations of the owners of oil shale mines in New South Wales and shall be representative of such owners;

(d)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- (d) one shall be appointed on the nomination of the mining unions and shall be representative of the employees in the coal mining industries of New South Wales;
- 5 (e) one shall be appointed on the nomination of the mining unions and shall be representative of the employees in the oil shale mining industries of New South Wales.

In this subsection the expression "mining union"  
10 means an industrial or trade union of employees or an association of employees registered as an organisation under the Commonwealth Conciliation and Arbitration Act 1904-1934, of the Parliament of the Commonwealth of which union or organisation the membership is com-  
15 prised of or includes mine workers.

(4) Every nomination shall be made as prescribed and shall be sufficient if made by such organisations of the owners or such of the unions concerned as the Minister deems sufficient.

- 20 (5) If no person, or no person able and willing to act as a member of the Tribunal is, within the time prescribed, nominated as the representative of any of the classes of persons referred to in subsection three of this section, the member of the Tribunal representative  
25 of such class may be appointed on the nomination of the Minister.

(6) At any meeting of the Tribunal if the question or matter to be considered is—

- 30 (a) solely in connection with the coal mining industry or the Coal Mine Workers' Pensions Fund only the Chairman and the two members of the Tribunal representative of the owners of coal mines and of the employees in the coal mining industry shall be entitled to vote;
- 35 (b) solely in connection with the oil shale mining industry or the Oil Shale Mine Workers' Pensions Fund only the Chairman and the two members of the Tribunal representative of the owners of oil shale mines and of the employees  
40 in the oil shale mining industry shall be entitled to vote;

(c).

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(c) of a general nature all five members of the Tribunal shall be entitled to vote.

Any question or matter shall be decided by a majority of the members present and entitled to vote, and the  
5 decision so arrived at shall be the decision of the Tribunal.

(7) At any meeting of the Tribunal if the question or matter before the Tribunal is—

10 (a) solely in connection with the coal mining industry or the Coal Mine Workers' Pensions Fund, any two of the members entitled to vote at such meeting shall form a quorum;

15 (b) solely in connection with the oil shale mining industry or the Oil Shale Mine Workers' Pensions Fund, any two of the members entitled to vote at such meeting shall form a quorum;

20 (c) of a general nature any three members (of whom at least one shall be representative of the interests referred to in paragraphs (b) and (c) of subsection three of this section, and at least one shall be representative of the interests referred to in paragraphs (d) and (e) of that subsection) shall form a quorum.

25 Any meeting at which a quorum is present shall be competent to transact any business of the Tribunal.

(8) (a) The member appointed Chairman of the Tribunal shall, subject to this Act, hold office as such for a period of six years and shall be eligible for re-appointment.

30 (b) The members of the Tribunal other than the Chairman shall, subject to this Act, hold office as such for a period of three years and shall be eligible for re-appointment.

35 (9) The office of a member of the Tribunal shall become vacant if he—

(a) resigns his office by writing under his hand addressed to the Governor;

40 (b) without the permission of the Tribunal or the Chairman fails to attend three consecutive meetings of the Tribunal at which he is entitled to vote;

(c)



*Coal and Oil Shale Mine Workers (Pensions).*

- (c) is removed from office by the Governor for misbehaviour or incompetence;
- (d) becomes bankrupt or assigns his estate for the benefit of his creditors;
- 5 (e) is convicted of a felony or misdemeanour;
- (f) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898.

(10) On the occurrence of any vacancy in the office of a member of the Tribunal the person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.

(11) No act or proceeding of the Tribunal shall be invalidated or prejudiced by reason only of the fact that at the time such act or proceeding is done, taken or commenced there is a vacancy in the office of any member.

(12) (a) The Chairman of the Tribunal shall be entitled to receive such remuneration, whether by way of annual salary or by way of fees for meetings attended, as the Governor may determine.

(b) The members of the Tribunal other than the Chairman shall be entitled to receive such remuneration by way of fees for meetings attended as the Governor may determine.

(c) The members of the Tribunal shall be entitled to receive travelling expenses at such rate as the Governor may determine.

(13) The office of Chairman or of member of the Tribunal shall not for the purposes of the Constitution Act, 1902, or of any Act amending that Act, be deemed to be an office or place of profit under the Crown.

16. (1) The Governor may, under and subject to the Public Service Act, 1902, as amended by subsequent Acts, appoint a Registrar and such officers and employees as may be necessary for the administration of this Act.

Registrar,  
officers and  
employees.

(2) The Registrar shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the Registrar by or under this Act.

*Coal and Oil Shale Mine Workers (Pensions).*

- 17.** (1) The Tribunal, or the Chairman or the Registrar, may, for the purposes of any inquiry or investigation which it or he is authorised to make—
- (a) summon witnesses;
- 5 (b) receive evidence on oath; and
- (c) require the production of documents.
- (2) A person who has been lawfully summoned to appear before the Tribunal, the Chairman or the Registrar, shall not fail to appear, and a person who
- 10 appears, whether summoned or not, shall not—
- (a) refuse to be sworn as a witness;
- (b) fail to answer any question he is lawfully required to answer; or
- 15 (c) fail to produce any document he is lawfully required to produce.
- (3) Any person who neglects or fails to comply with any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding fifty pounds.

Powers of Tribunal in respect of inquiries and investigations.

cf. Child Endowment Act 1941 (Commonwealth), s. 11.

20

## PART IV.

## FUNDS AND CONTRIBUTIONS.

- 18.** (1) There shall be established under this Act two funds to be known respectively as the Coal Mine Workers' Pensions Fund and the Oil Shale Mine Workers' Pensions Fund.
- 25 Pensions Fund.
- (2) (a) The Coal Mine Workers' Pensions Fund shall consist of such moneys as are required or authorised by this Act to be paid into that Fund.
- (b) There shall be payable out of the Coal
- 30 Mine Workers' Pensions Fund all pensions payable to mine workers or to the dependants of mine workers who were employed or engaged in the coal mining industry and to mine workers or the dependants of mine workers who, in the opinion of the Tribunal, were engaged in
- 35 work associated with that industry.

(3)

*Coal and Oil Shale Mine Workers (Pensions).*

(3) (a) The Oil Shale Mine Workers' Pensions Fund shall consist of such moneys as are required or authorised by this Act to be paid into that Fund.

(b) There shall be payable out of the Oil Shale Mine Workers' Pensions Fund all pensions payable to mine workers or the dependants of mine workers who were employed or engaged in the oil shale mining industry and to mine workers or the dependants of mine workers who, in the opinion of the Tribunal, were engaged in work associated with that industry.

(4) The expenses involved in the administration of this Act shall be paid out of the Funds in such proportions as the Tribunal may determine.

(5) The Funds shall be under the control of the Tribunal and shall be operated upon in the manner prescribed.

(6) Any moneys in either of such Funds which are not immediately required for the purposes of that Fund may be invested by the Tribunal in any manner in which trustees are for the time being authorised to invest trust funds.

Any interest from time to time accruing from any such investment shall be paid into the Fund the moneys of which are so invested.

19. (1) The Tribunal shall, as soon as practicable after the day appointed and notified for the commencement of Part II of this Act, make an estimate of the amount required by each Fund for the period commencing on the day so appointed and notified and ending on the thirtieth day of June next following 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.

The amount to be provided in that period for the reserve in connection with each Fund shall be such amount as the Governor may direct.

(2) The Tribunal shall make an estimate of the amount required by each Fund for the period of twelve months commencing on the first day of July next following the expiration of the period referred to in subsection

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

one of this section, and thereafter for each succeeding 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  
5 Fund.

The amount to be provided in any year for the reserve in connection with each Fund shall be such amount as the Governor may direct.

Each estimate made under this subsection shall be  
10 made not later than the thirty-first day of March next preceding the commencement of the period to which the estimate relates.

(3) (a) A sum equivalent to one-fourth of the total of the amounts estimated by the Tribunal pursuant to subsection one or subsection two of this section or the sum of eighty thousand pounds whichever is  
15 the less shall be paid by the Colonial Treasurer to the Tribunal, and shall be apportioned between the respective funds in such proportions as the Colonial Treasurer may direct or, if no such direction is given, as the Tribunal  
20 may determine.

(b) The balance of the amount so estimated by the Tribunal in respect of each fund shall be paid to the Tribunal—

(i) as to one-third part thereof by the mine workers;  
25 (ii) as to two-third parts thereof by the owners.

(4) Any moneys payable by the Colonial Treasurer under this section shall be paid out of moneys provided by Parliament.

(5) The moneys payable by the owners under this  
30 section shall be paid in such manner and at such times as may be prescribed.

Without prejudice to the generality of the foregoing provisions of this subsection regulations may prescribe  
35 the basis or bases upon which the contributions of individual owners may be assessed.

(6) The moneys payable by the mine workers under this section shall be paid in such manner and at such times as may be prescribed.

Without prejudice to the generality of the foregoing provisions of this subsection the regulations may  
40 prescribe

*Coal and Oil Shale Mine Workers (Pensions).*

prescribe the basis or bases upon which the contributions of individual mine workers are to be assessed, and may provide for the collection (by deduction from wages or otherwise) and payment to the Tribunal by the employers of mine workers of any such contributions.

## PART V.

## MISCELLANEOUS.

**20.** (1) Subject to this Act, a pension shall be absolutely inalienable, whether by way or in consequence of sale, assignment, charge, execution, insolvency, or otherwise howsoever:

Pensions to be inalienable.

Provided that nothing herein shall be construed to prevent the Tribunal, with or without the consent of the pensioner, from paying the whole or any portion of the pension to any other person for the use of the pensioner or in satisfaction to the extent thereof of any of his just debts or liabilities.

(2) Every person commits an offence and shall be liable to a penalty not exceeding fifty pounds who demands or accepts from any pensioner under this Act any certificate or any acknowledgment or undertaking that would constitute a legal or equitable assignment of or charge upon any pension under this Act if such pension were capable of being legally assigned or charged.

**25** **21.** (1) Where any mine worker who has been awarded a pension pursuant to this Act is sentenced to imprisonment for any period in excess of one month, his pension rights pursuant to this Act shall be suspended during the period of such imprisonment, and any person who would, if the mine worker were dead, have been eligible for a pension under section ten of this Act, shall be eligible for a pension in accordance with that section during the period of such imprisonment as if the mine worker were dead.

Suspension of pension rights in certain events—alternative pensions to dependants.

**35** (2) Where any mine worker who is eligible for or who has been awarded a pension pursuant to this Act becomes an insane patient within the meaning of the Lunacy

*Coal and Oil Shale Mine Workers (Pensions).*

Lunacy Act of 1898, as amended, his pension rights pursuant to this Act shall be suspended while he continues to be such an insane patient, and any person who would, if the mine worker were dead, have been eligible for a pension under section ten of this Act, shall be eligible for a pension in accordance with that section during the period for which the mine worker continues to be an insane patient as if the mine worker were dead, and shall be entitled to retain the whole of the said pension for his own use and benefit absolutely the provisions of any other Act notwithstanding.

(3) The wife of any mine worker eligible for or in receipt of a pension under this Act who has been deserted by her husband or who has been left by him without means of support and who satisfies the Tribunal—

- (a) that she has taken proceedings against her husband for an order under the Deserted Wives and Children Act, 1901-1931, and either that she has failed to obtain an order or that the order, if made, has not been complied with; and
- (b) that the whereabouts of her husband are not known,

shall be eligible for a pension in accordance with section ten of this Act, as if the mine worker were dead, during the period for which she is so deserted or left without means of support.

Where a pension is awarded to a deserted wife pursuant to this subsection the Tribunal may suspend the pension payable to the mine worker or may direct that such pension is to be reduced by the amount of the pension payable to the deserted wife.

**22.** Where a person entitled to payment of a pension under this Act is for any cause unable to give a valid receipt for such payment the Tribunal or the Chairman may direct that payment be made to some person on his behalf, and the receipt of such person for any payment so made shall be a valid discharge.

Appoint-  
ment of  
person to  
receive  
pension.

**23.** (1) The Minister may refer any question arising under this Act to the Industrial Commission of New South Wales.

References to  
Industrial Com-  
mission of New  
South Wales.

(2)

*Coal and Oil Shale Mine Workers (Pensions).*

(2) The Industrial Commission of New South Wales shall, for the purpose of hearing and determining any question referred to it under this section, be constituted by a full bench of three judges.

5 All persons interested and appearing before the Industrial Commission of New South Wales, including the Minister and the Tribunal, shall be entitled to be heard.

(3) The power to make regulations conferred by the Industrial Arbitration Act, 1940, shall extend to the  
 10 making of regulations for regulating the procedure to be followed in proceedings before the Industrial Commission of New South Wales arising under and pursuant to this section and for prescribing all matters which are necessary or convenient to be prescribed by such regula-  
 15 tions in relation to the exercise or discharge of the functions of that Commission under this section.

24. (1) Any part of the contributions required to be paid by section nineteen of this Act that is not paid on the due date and all penalties incurred in respect  
 20 thereof shall constitute a debt due and payable to the Crown, and shall be recoverable in any court of competent jurisdiction by the Chairman of the Tribunal on behalf of the Crown by suit in his official name.

Unpaid contributions recoverable as debt.

(2) If in any proceedings against any person for  
 25 failure to pay any contribution payable under section nineteen of this Act within the time prescribed the defendant alleges that he is exempt from the obligation to pay the contribution, or that he has paid the contribution, the burden of proving such exemption or payment  
 30 shall be on him.

25. (1) Where it is found that any pension or instalment of a pension which is not payable has been paid or that any sum paid by way of pension or instalment of pension is in excess of the amount so payable, the amount  
 35 wrongly paid may be recovered as a debt due to the Crown at the suit of the Chairman of the Tribunal in his official name, or, where it is practicable so to do, the Tribunal may make any necessary adjustments in any instalments of the same or any other pension thereafter  
 40 becoming payable.

Recovery of over-payments of pensions.

*Coal and Oil Shale Mine Workers (Pensions).*

(2) Nothing in this section shall relieve the person wrongly receiving any such payment from any other liability in respect of any fraud committed by him.

**26.** (1) The Tribunal shall cause to be kept proper Accounts and audit.  
 5 books of account, and shall, as soon as practicable after the thirtieth day of June in each year, prepare and transmit to the Minister for presentation to Parliament statements of accounts in a form approved by the Auditor-General, exhibiting a true and correct view of  
 10 the financial position and transactions of the Tribunal.

(2) The accounts of the Tribunal shall be audited by the Auditor-General, who shall have, in respect thereof, all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to  
 15 the audit of public accounts; and the Audit Act, 1902, and Acts amending the same, shall apply to the Tribunal, the members of the Tribunal, and the officers and employees concerned in the administration of this Act in the same manner as it applies to accounting officers  
 20 of public departments.

**27.** The Minister shall once in every three years, and may at such other times as he thinks fit, cause an examination and report to be made by an actuary appointed by him, upon the assets and liabilities of each of the  
 25 funds established under section eighteen of this Act. Actuarial investigation of funds.

**28.** For the purpose of providing for the requirements of the funds established under section eighteen of this Act the Colonial Treasurer may, in and for any period in respect of which a contribution is payable by  
 30 him under section nineteen of this Act, make advances against the contribution payable by him in respect of that period, to either or both of the funds of such amount or amounts (not exceeding in the aggregate the amount of the contribution) as may in his opinion be necessary.  
 35 Any such advance shall be in satisfaction in whole or in part of the contribution so payable in respect of that period. Advances by Treasury.

**29.** (1) Any person who, for the purpose of obtaining any pension under this Act, for himself or for any other  
 40 person, or for the purpose of obtaining exemption from any obligation under this Act, for himself or for any  
 other Offences.



*Coal and Oil Shale Mine Workers (Pensions).*

- other person, makes any false statement to or otherwise misleads or attempts to mislead the Tribunal, the Registrar or any officer concerned in the administration of this Act or the Workers' Compensation Commission of New
- 5 South Wales or any other person whomsoever or otherwise commits any fraudulent act or omission, shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for twelve months.
- 10 (2) Where a person is convicted of an offence under subsection one of this section and it is made to appear that, in consequence of such offence he was wrongly paid any amount by way of pension, the Court may, in addition to the penalty or punishment referred to
- 15 in that subsection, impose a penalty or additional penalty not exceeding twice the amount so wrongly paid.
- 20 **30.** (1) Any penalty imposed by or under this Act or the regulations may be recovered in a summary manner before a stipendiary or police magistrate, or any two justices in petty sessions. Recovery of penalties.
- (2) Any magistrate or justices may in any proceedings for a penalty under this Act or the regulations make such order as to the payment of costs as may be thought just, and may assess the amount of such costs.
- 25 **31.** All fines and penalties paid or recovered under this Act or the regulations shall be paid to the Tribunal and shall be paid by it into such of the funds as the Tribunal may think fit having regard to the offence in respect of which the fine or penalty was imposed. Fines and penalties to be paid into appropriate Fund.
- 30 **32.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.
- 35 (2) In particular and without prejudice to the generality of subsection one of this section the regulations may—
- (a) prescribe the manner and form of claims for
- 40 pensions, the persons by whom claims may be made, and the particulars to be furnished in support of such claims;
- (b)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- (b) prescribe the general conditions governing the allowance of pensions, and the manner in which such allowance is to be signified or evidenced;
- 5 (c) prescribe the general conditions governing the payment of pensions and the manner in which and times at which payment is to be made;
- (d) make provision for the repayment of contributions or part thereof to contributors in such cases (if any) and subject to such conditions as may be prescribed;
- 10 (e) require employers of mine workers to keep records in such manner or in such form as may be prescribed, showing the commencement and cessation of the employment of each mine worker and such other particulars as may be prescribed.
- 15

(3) The regulations may impose a penalty not exceeding ten pounds for any breach of the regulations.

- (4) Any regulations made under this Act shall—
- 20 (a) be published in the Gazette;
- (b) take effect from the date of publication, or from a later date to be specified in the regulations; and
- 25 (c) be laid before both Houses of Parliament within fourteen sitting days after publication, if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

30 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof such regulation or part shall thereupon cease to have effect.

*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

W. R. McCOURT,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 2 October, 1941.*

## New South Wales.



ANNO QUINTO

# GEORGII VI REGIS.

\*\*\*\*\*

## Act No. 45, 1941.

An Act to prohibit the employment and the continuance in employment in the coal or oil shale mining industries, and in certain callings related thereto, of certain persons of or above the age of sixty years; to make provision for and with respect to the payment of pensions to such persons and certain other persons; to amend the Widows' Pensions Act, 1925-1937, and certain other Acts; and for purposes connected therewith. [Assented to, 8th October, 1941.]

**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:—

### PART I.

#### PRELIMINARY.

1. (1) This Act may be cited as the "Coal and Oil Shale Mine Workers (Pensions) Act, 1941."

Short title, commencement and construction.

(2)

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

G. BOOTH,  
*Chairman of Committees of the Legislative Assembly.*

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY—ss. 1-4.

PART II.—COMPULSORY RETIREMENT AND PENSIONS—  
ss. 5-14.

PART III.—THE TRIBUNAL—ss. 15-17.

PART IV.—FUNDS AND CONTRIBUTIONS—ss. 18, 19.

PART V.—MISCELLANEOUS—ss. 20-32.

(3) (a) Parts I and V of this Act shall commence on the day upon which the assent of His Majesty to this Act is signified.

(b) Parts II, III and IV of this Act shall commence upon such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

A different day may be so appointed and notified in respect of any of such Parts.

(4) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act or of the regulations or the application thereof to any person or circumstance is held invalid, the remainder of this Act or of such regulations and the application of such provision to other persons or circumstances shall not be affected.

(5) This Act shall be read and construed with the Coal Mines Regulation Act, 1912, as amended by subsequent Acts.

**Definitions.**

**2.** (1) In this Act, unless the context or subject-matter otherwise indicates or requires,—

“Injury” has the meaning given to that expression in the Workers’ Compensation Act, 1926, as amended by subsequent Acts.

“Mine worker” means—

- (a) a person who is employed (whether underground or above ground) in or about a coal or oil shale mine in New South Wales by the owner of the mine;
- (b)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- (b) a person who was, at any time after the first day of January, one thousand nine hundred and twenty-eight, engaged in the coal or oil shale mining industries in New South Wales;
- (c) a person who has, at any time after the first day of February, one thousand nine hundred and thirty, and before the commencement of this Act, become permanently incapacitated by injury arising out of and in the course of his employment (whether underground or above ground) in or about a coal or oil shale mine in New South Wales;
- (d) a person (including a permit manager) working (whether underground or above ground) in or about a small mine in New South Wales;
- (e) 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, is principally engaged in the transport of coal or oil shale from the mine to the point of delivery by the owner; and for the purposes of this paragraph "point of delivery" means the place at which coal or oil shale is delivered by the owner of the mine to any railway of the Commissioner for Railways, or to the South Maitland Railway, or to any wharf or other place appointed for the purpose, and includes, in any case where process works are carried on by the owner of the mine, the place at which coal or oil shale is delivered at such works;
- (f) a check-weigher or district check inspector;
- (g)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- (g) a member of a permanent rescue corps established at a central rescue station pursuant to the Mines Rescue Act, 1925;
- (h) an elected official of an industrial or trade union of employees, or of an association of employees registered as an organisation under the Commonwealth Conciliation and Arbitration Act 1904-1934 of the Parliament of the Commonwealth, of which union or organisation the membership is principally confined to persons falling within any one or more of the classes referred to in paragraphs (a) to (g) of this definition:

Provided that (subject to subsection four of this section) the expression "mine worker" shall not include—

- (i) a superintendent, manager, or under manager;
- (ii) the official known as the colliery engineer and the official appointed as mine electrician pursuant to section twenty-two of the Coal Mines Regulation Act, 1912, as amended by subsequent Acts;
- (iii) a person engaged in clerical work in connection with a coal or oil shale mine;
- (iv) a person (other than a person of the class referred to in paragraph (e) of this definition) employed in or in connection with the oil shale industry whose work does not relate to the mining of oil shale;
- (v) a coke worker;
- (vi) a superintendent or an instructor appointed pursuant to the Mines Rescue Act, 1925.

"Owner" has the meaning given to that expression in the Coal Mines Regulation Act, 1912, as amended by subsequent Acts.

"Pension"

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

“Pension” means a pension payable under this Act and includes any amounts payable as an addition to a pension.

“Prescribed” means prescribed by this Act or the regulations.

“Regulations” means regulations made under this Act.

“Tribunal” means the Pensions Tribunal constituted under this Act.

(2) A person shall, for the purposes of this Act, be deemed to be “engaged in the coal or oil shale mining industries”—

(a) for any period (whether before or after the commencement of Part II of this Act) during which he is employed as a mine worker;

(b) for any period (whether before or after the commencement of Part II of this Act) during which he is unemployed, if, immediately before the date upon which he so became unemployed—

(i) he was employed (whether underground or above ground) in or about a coal or oil shale mine in New South Wales by the owner of the mine; or

(ii) he was a member of a permanent rescue corps established at a central rescue station pursuant to the Mines Rescue Act, 1925:

Provided that a person shall not be deemed to be “engaged in the coal or oil shale mining industries” by reason of the operation of paragraph (b) of this subsection unless he satisfies the Tribunal that his employment was terminated otherwise than for misconduct and that his failure to obtain other employment was through no fault on his part:

Provided further that the period for which any such person is unemployed shall be deemed not to be interrupted by periods during which he is employed upon relief work or upon other work of a casual nature.

(3)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(3) A reference in any provision of this Act to the "date of retirement" shall, in the application of that provision to or in respect of any particular mine worker, be construed as a reference to the date on and after which the employment of that mine worker as a mine worker would be an offence under section five of this Act.

(4) (a) The Governor may, by proclamation published in the Gazette, extend the definition of "mine worker" to include any one or more of the classes of persons referred to in the proviso to that definition.

Any such proclamation shall take effect as from the date of the publication thereof in the Gazette or from a later date to be specified in the proclamation.

As from the date upon which any such proclamation takes effect the provisions of this Act shall (subject to any modification which may be made pursuant to paragraph (b) of this subsection) apply to and in respect of persons who are members of the class to which the proclamation relates.

(b) In any proclamation published pursuant to paragraph (a) of this subsection the Governor may, if he thinks fit, specify an age (being later than the age of sixty years) which shall be the retiring age of persons who are members of the class to which the proclamation relates.

Where a retiring age is so specified the provisions of this Act, in their application to and in respect of persons who are members of such class, shall be deemed to be modified to the extent following, that is to say—section five of this Act shall have and take effect as if the age specified in the proclamation 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.

**3.** (1) Any mine worker who is absent from New South Wales or from his employment upon war service, as defined in the Defence Act 1903, as amended by subsequent Acts, of the Parliament of the Commonwealth or upon any kind of work or service in connection with any war in which Australia is, for the time being, engaged, shall

Special provisions as to calculation of periods of employment.



---

*Coal and Oil Shale Mine Workers (Pensions).*

---

shall be deemed to have been continuously resident in New South Wales and to have been employed in or about a coal or oil shale mine, as the case may be, during the period of such absence.

(2) Any mine worker who is lawfully absent from work on an award holiday or on annual leave or through sickness or accident not due to his own fault shall be deemed to have actually worked in or about a coal or oil shale mine, as the case may be, during the period of such absence.

(3) Continuous residence in New South Wales shall be deemed not to have been interrupted by occasional absences not exceeding in the aggregate one-tenth of the total period of residence, and for the purposes of this Act, the period of any such absence shall be counted as a period of residence in New South Wales.

(4) Any elected official of an industrial or trade union of employees or of an association of employees registered as an organisation under the Commonwealth Conciliation and Arbitration Act 1904-1934 shall, for the purposes of this Act, be deemed to have actually worked in or about a coal or oil shale mine in New South Wales or in Australia, as the case may be, for the whole of the period during which he held office as such elected official.

(5) Any member of a permanent rescue corps established at a central rescue station shall, for the purposes of this Act, be deemed to have actually worked in or about a coal or oil shale mine in New South Wales for the whole of the period during which he was such a member.

(6) For the purposes of this Act the work of persons of the classes referred to in paragraphs (e) and (f) of the definition of "mine worker" shall be deemed to be work in or about a coal or oil shale mine.

4. (1) Where the Governor is satisfied—

- (a) that there is in force in any other State of the Commonwealth of Australia legislation providing for the payment of pensions to mine workers and their dependants, and that such pensions

Reciprocat-  
ing States.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

pensions are of the like amount and are awarded on the like conditions as the pensions for which provision is made in this Act; and

- (b) that an agreement with such other State has been entered into under subsection two of this section,

he may, by proclamation published in the Gazette, declare such other State to be a reciprocating State for the purposes of this Act.

(2) The Minister may, for and on behalf of this State, enter into an agreement with a Minister of the Crown for such other State acting for and on behalf of such other State, with respect to all or any of the following matters:—

- (a) the circumstances in which and the conditions subject to which the Tribunal will, for the purposes of this Act, regard any person who is or has been a mine worker in or is or has been engaged in the coal or oil shale mining industries of such other State, as a person who is or has been a mine worker in or is or has been engaged in the coal or oil shale mining industries of New South Wales;
- (b) the circumstances in which and the conditions subject to which the Tribunal may accept and act upon a certificate furnished by the Minister of the Crown for such other State or by any specified officer of such other State that any person is or has been a mine worker in or is or has been engaged in the coal or oil shale mining industries of such other State, and the period or periods during which he has been such a worker or has been so engaged;
- (c) the circumstances in which and the conditions subject to which the funds established under this Act or either of them shall be liable for the payment of the whole or any part of any pension awarded to a person of the class referred to in paragraph (a) of this subsection;
- (d)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- (d) the circumstances in which and the conditions subject to which payment may be made from the funds established under this Act, or either of them, to the corresponding funds or fund established under the legislation of such other State;
- (e) the making of such provision as may be necessary to ensure that a mine worker or his dependants shall not become entitled to payment of a pension under this Act as well as under the legislation of such other State;
- (f) any adjustments which may be necessary if the proclamation declaring such other State to be a reciprocating State is revoked;
- (g) any other matter arising under this Act which the Minister may consider necessary or convenient to be included in the agreement.

No agreement entered into under this subsection shall have any force or effect until the proclamation referred to in subsection one of this section has been published.

(3) The Governor may, if he thinks fit, by proclamation published in the Gazette, revoke any proclamation under subsection one of this section.

Where a proclamation is so revoked the agreement entered into under subsection two of this section shall lapse except to the extent to which it relates to the matters referred to in paragraph (f) of that subsection.

(4) Where a proclamation declaring any other State of the Commonwealth of Australia to be a reciprocating State has been published and is still in force the provisions of this Act shall be deemed to be modified to the extent necessary to enable the agreement entered into under subsection two of this section with such other State to be carried into effect.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

PART II.

COMPULSORY RETIREMENT AND PENSIONS.

Employment  
after 60  
years of age  
prohibited.

5. (1) Subject to this section no person shall take into or retain in his employment as a mine worker any person who is of or above the age of sixty years and no person of or above the age of sixty years shall accept or continue in employment as a mine worker.

(2) (a) Every mine worker who is, at the commencement of this Part, employed as a mine worker, and who is, at such commencement, of or above the age of sixty years, shall be retired from and shall vacate his employment as a mine worker upon the expiration of the period of three months after such commencement.

(b) Every mine worker who is, at any time after the commencement of this Part, employed as a mine worker and who, whilst so employed, attains the age of sixty years, shall be retired from and shall vacate his employment as a mine worker immediately upon attaining that age:

Provided that any such mine worker who attains the age of sixty years at any time within the period of three months after the commencement of this Part shall be retired from and shall vacate his employment as a mine worker upon the expiration of that period.

(c) A person of or above the age of sixty years who is not, at the commencement of this Part, employed as a mine worker, shall not, at any time after such commencement, be employed as a mine worker.

(3) Any person who neglects or fails to comply with any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding fifty pounds and to a further penalty not exceeding five pounds for every day during which the offence continues.

(4) (a) The Tribunal may, from time to time, upon special cause being shown, suspend the operation of subsections one and two of this section in their application to and in respect of any specified employment of a specified mine worker.

Any

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

Any such suspension may be made subject to such conditions (if any) as the Tribunal may impose.

Any such suspension shall be evidenced by a certificate of exemption which shall be issued by the Tribunal and shall specify the employment in respect of which the operation of those subsections is suspended, the mine worker to whom the certificate relates, the period for which the certificate is to remain in force, and the conditions (if any) subject to which the operation of those subsections is suspended.

(b) The Tribunal may, from time to time, suspend the operation of subsections one and two of this section in their application to and in respect of the employment in or about any specified mine of all mine workers, or of any specified class of mine workers or of all mine workers other than those of a specified class.

Any such suspension may be made subject to such conditions (if any) as the Tribunal may impose.

Any such suspension shall be evidenced by a certificate of exemption which shall be issued by the Tribunal and shall specify the mine to which the certificate relates and shall indicate whether the certificate relates to the employment of all mine workers or of a specified class of mine workers or of all mine workers other than those of a specified class. The certificate shall also specify the period for which the same is to remain in force, and the conditions (if any) subject to which the operation of those subsections is suspended.

(c) The employment of a mine worker after the date of retirement shall not, where such employment is under and in accordance with a certificate issued under this subsection, constitute an offence.

(5) It shall be a sufficient defence to a charge that a person has taken into or retained in his employment as a mine worker any person who is of or above the age of sixty years if the person charged proves that the age of the person so employed, as disclosed by the particulars furnished pursuant to regulations made in that behalf, was, at the relevant date, less than sixty years.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

Pensions—  
mine  
workers who  
are retired.

**6.** (1) Any mine worker who is employed as a mine worker at the commencement of this Part or at the date upon which he attains the age of sixty years, whichever is the later, or who though not so employed had, during the twelve months immediately preceding the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, actually worked as a mine worker for not less than sixty days in all during the said period of twelve months, shall be eligible, as from the date of retirement, to a pension of two pounds per week if he establishes to the satisfaction of the Tribunal that—

- (a) he has been continuously resident in New South Wales during the five years immediately preceding the date of retirement, and
  - (i) he has actually worked in or about a coal or oil shale mine in New South Wales for not less than three hundred days during the said period of five years; or
  - (ii) before the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, he has been engaged in the coal or oil shale mining industries in New South Wales for a period of not less than twenty years in all; or
- (b) he has been resident in New South Wales for not less than five years out of the seven years immediately preceding the date of retirement; and
  - (i) he has actually worked in or about a coal or oil shale mine in Australia for not less than five hundred days during such period of seven years; or
  - (ii) before the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, he has been engaged in the coal or

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

or oil shale mining industries in New South Wales for a period of not less than twenty years in all.

(2) Any mine worker who is, at the commencement of this Part, of or above the age of sixty years and who had, during the twelve months immediately preceding such commencement, actually worked as a mine worker for not less than sixty days in all, but who is unable to satisfy the conditions contained in paragraph (a) or paragraph (b) of subsection one of this section, shall be eligible as from the date of retirement for a pension of one pound ten shillings per week:

Provided that the Tribunal shall not award a pension under this subsection to any mine worker unless, in its opinion, the employment of such mine worker was bona fide, and was not arranged solely or mainly for the purpose of enabling such mine worker to become eligible for a pension pursuant to this subsection.

(3) Any mine worker who, at the date of retirement, is not eligible, pursuant to subsection one or subsection two of this section, for a pension, shall be eligible, as from the date of retirement, for a pension of one pound ten shillings per week if he establishes to the satisfaction of the Tribunal—

- (a) that during the ten years immediately preceding the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, he has been engaged in the coal or oil shale mining industries in New South Wales and during such period has actually worked in the coal or oil shale mining industries in New South Wales for a period of not less than six hundred days in all; or
- (b) that before the commencement of this Part or the date upon which he attained the age of sixty years, whichever is the later, he has been engaged in the coal or oil shale mining industries in New South Wales for a period of not less than twenty years **in all**.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

Pension—  
permanent  
incapacity.

7. (1) A mine worker shall, subject to this section, be eligible for a pension of two pounds per week if he proves to the satisfaction of the Tribunal—

- (a) 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 February, one thousand nine hundred and thirty, or arose after such commencement; and
- (b) that by reason of such incapacity he is unable to continue in employment as a mine worker; and
- (c) that—
  - (i) in any case where the mine worker is of or above the age of sixty years, the incapacity continued until the date of his application for a pension under this section; or
  - (ii) in any case where the mine worker is under the age of sixty years, the incapacity is likely to be permanent:

cf. Act No.  
15, 1926, s. 7  
(3) (c).

Provided that a mine worker shall not be eligible for a pension under this subsection where the injury giving rise to the incapacity was an intentional self-inflicted injury.

(2) Where a mine worker is awarded a pension pursuant to subsection one of this section the total amount payable to him as pension (being the amount payable pursuant to that subsection and any amounts payable pursuant to section nine of this Act) shall be reduced by the average weekly amount which he earns or which the Tribunal finds he might reasonably earn from available employment (not being relief work) not inconsistent either in itself or by reason of the conditions under which it is performed with the maintenance of his health in either of the following cases, that is to say—

- (a) where the pension is awarded on the ground of partial incapacity; or

(b)



---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- (b) where the pension was awarded on the ground of total incapacity and subsequently thereto he has so far recovered as to be fit for employment of the character referred to in the foregoing provisions of this subsection.

8. (1) Notwithstanding anything in this Part the Tribunal may award a pension to any mine worker even though he may not possess the qualifications required by any other provision of this Part 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 mine worker.

Hard luck cases.

(2) Where the Tribunal awards a pension under subsection one of this section it shall determine, having regard to the matters referred to in that subsection, whether the rate of pension shall be two pounds per week or one pound ten shillings per week.

9. (1) Where a mine worker becomes eligible for a pension under section six, section seven or section eight of this Act, he shall also be eligible for an addition to such pension consisting of the following amounts—

Pensions—  
additional  
payments in  
respect of  
dependants.

- (a) an amount of one pound per week in respect of his wife, which amount shall be payable until her death or until she ceases to be his wife;
- (b) an amount of eight shillings and six pence per week in respect of each child (whether legitimate or illegitimate) and step-child under the age of sixteen years who is totally or mainly dependent on his earnings, which amount shall be payable until such child shall attain the age of sixteen years;
- (c) where no amount is payable under paragraph (a) of this subsection, an amount of one pound per week in respect of one female who is totally or mainly dependent on his earnings, which amount shall be payable until her death or marriage or until she ceases to be such a dependant:

Provided

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

Provided that no amount shall be paid under this paragraph unless the female in respect of whom such weekly payment is claimed—

- (i) is an adult and is caring for any child or stepchild of the mine worker under the age of sixteen years; or
- (ii) is a member of the mine worker's family and is over the age of sixteen years;
- (d) where no amount is payable under paragraph (b) of this subsection an amount of eight shillings and sixpence per week in respect of each brother and sister under the age of sixteen years who is totally or mainly dependent on his earnings, which amount shall be payable until such brother or sister shall attain the age of sixteen years.

(2) Notwithstanding anything in subsection one of this section the Tribunal may award or continue a pension under paragraph (b) or paragraph (d) of that subsection in respect of any child who has attained the age of sixteen years if by reason of any physical or mental defect such child is totally incapacitated from earning a living.

(3) Notwithstanding anything in any other provision of this section the Tribunal may, if in the circumstances of any case it thinks fit so to do, regard as a child within the meaning of this section any child, who, though not within the relationships mentioned in this section, is maintained as a member of the family of a mine worker.

(4) Where any amount is paid under this Part in respect of any child under sixteen years of age, the Tribunal may in its discretion, for the purpose of assisting in the further education of the child, continue the pension for such period as it thinks fit not exceeding two years after the child has attained the age of sixteen years.

Pension payable to dependants.

**10.** (1) Upon the death of—

- (a) a person who has been awarded a pension pursuant to section six, section seven or section eight of this Act; or

(b)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- (b) 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 intentional self-inflicted injury),

the widow of such person or mine worker or the female in respect of whom such person or mine worker, if he had remained alive, would have been entitled to an addition to his pension under paragraph (c) of subsection one of section nine of this Act, shall be eligible for a pension of one pound ten shillings per week, which shall be payable until the death, remarriage or marriage of such widow or female, as the case may be, and the persons referred to in paragraphs (b) and (d) of subsection one and in subsections two, three and four of section nine of this Act shall also be eligible for 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.

(2) Except as provided in this section no person who is eligible for a pension under subsection one of this section (in this section hereinafter referred to as a "dependant"), shall be entitled to a pension under this Act as well as compensation under the Workers' Compensation Act, 1926-1938, or damages received or recovered independently of that Act in respect of the death of the mine worker.

(3) Where either before or after the commencement of this Part the mine worker upon whose death the dependant is eligible for a pension under subsection one of this section had, during his lifetime made a claim against his employer for compensation under the Workers' Compensation Act, 1926-1938, in respect of the injury or where, either before or after the commencement of this Part, the dependant has received or is in receipt of or would, upon application, be entitled to compensation under that Act in respect of the death of the mine worker, the following provisions shall have effect:—

cf. Act No.  
30, 1912,  
s. 100D (5).

- (a) Where the mine worker had elected, pursuant to section sixteen of the Workers' Compensation Act, 1926-1938, to accept an amount payable in accordance

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

accordance with the table to that section, or had, pursuant to section fifteen of that Act, received a lump sum in redemption of weekly payments the disqualification under subsection two of this section shall cease to have effect on the expiration of a period ascertained as follows:—

The period shall be the period during which, if a pension had been awarded and paid to the mine worker as from the date upon which compensation became payable, the total sum paid to him by way of pension at the appropriate rate (including any additional amounts in respect of dependants) would have been equal to the amount payable in accordance with the said table or the amount of the lump sum as the case may be.

- (b) Where the amount of compensation payable under the Workers' Compensation Act, 1926-1938, in respect of the death of the mine worker has been paid into the office of the Workers' Commission the disqualification under subsection two of this section shall cease to have effect on the expiration of a period ascertained as follows:—

The period shall be the period during which, if pensions had been awarded and paid to the dependants, the total sum paid to all the dependants by way of pension would have been equal to the amount of compensation.

- (c) Where the dependants or any of them who are eligible for pensions under subsection one of this section would, upon application, be entitled to compensation under the Workers' Compensation Act, 1926-1938, the disqualification under subsection two of this section shall continue until such time as the application is made, and thereafter until such disqualification ceases to have effect pursuant to paragraph (b) of this subsection.

Nothing

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

Nothing in this paragraph shall be construed as disqualifying the dependants or any of them from receiving a pension by reason only of the fact that proceedings in respect of the death of the mine worker have been taken independently of the Workers' Compensation Act, 1926-1938.

(4) Where, either before or after the commencement of this Part—

- (a) the mine worker upon whose death the dependant is eligible for a pension under subsection one of this section has, in his lifetime, received or recovered damages from his employer independently of the Workers' Compensation Act, 1926-1938, in respect of the injury; or
- (b) the dependant has received or recovered or receives or recovers damages independently of that Act in respect of the death of the mine worker—

the disqualification under subsection two of this section shall have effect until the expiration of a period to be determined in accordance with regulations made in that behalf.

Such regulations shall, as far as practicable, apply to and in respect of such damages the like principles as under subsection three of this section are applicable to and in respect of compensation.

Without prejudice to the generality of the power to make regulations, the regulations made in relation to the matters referred to in this subsection may prescribe conditions subject to which such principles shall be so applied and may provide that part only of the amount of such damages is to be taken into account for the purposes of such regulations and in such case shall prescribe such part or the manner of ascertaining the same.

**11.** (1) Where a mine worker becomes eligible for a pension pursuant to section six, section seven or section eight of this Act the pension shall, subject to this Act, be payable to him until his death.

Pensions—  
special  
provisions.

(2)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(2) No mine worker shall be paid more than one pension under this Act.

(3) The total amount payable to any mine worker by way of pension (including all additions for which he may be eligible under section nine of this Act) shall not exceed the sum of four pounds five shillings and sixpence per week.

(4) All pensions payable under this Part shall vary to accord with fluctuations in the total sum which comprises the needs basic wage assessed on the index number for the weighted average of the five towns of New South Wales together with the fixed loading addition applicable to the needs basic wage so assessed.

For the purpose of calculating any such variation the amounts specified in sections six to ten, both inclusive, of this Act shall be deemed to have been fixed by reference to the total sum which comprised the needs basic wage so assessed and in force at the commencement of this Part together with the fixed loading addition applicable thereto.

Any such variation shall be calculated to the nearest sixpence.

No pension while compensation payable.

**12.** (1) Except as provided in this section no mine worker shall be entitled to a pension under any provision of this Part, as well as compensation under the Workers' Compensation Act, 1926-1938, or damages received or recovered independently of that Act in respect of an injury arising out of and in the course of his employment as a mine worker.

(2) Where either before or after the commencement of this Part a mine worker has received, or is in receipt of or would, upon application, be entitled to compensation under the Workers' Compensation Act, 1926-1938, the following provisions shall have effect:—

- (a) Where a mine worker accepts or has accepted weekly payments of compensation under that Act the disqualification under subsection one of this section shall cease to have effect on the day upon which his right to such weekly payments ceases.
- (b)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- (b) Where the mine worker 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 pursuant to section fifteen of that Act, receives or has received a lump sum in redemption of weekly payments, the disqualification under subsection one of this section shall cease to have effect on the expiration of a period ascertained as follows:—

The period shall be the period during which, if a pension had been awarded and paid as from the date upon which compensation became payable, the total sum paid to the mine worker as pension (including any additional amounts in respect of dependants) would have been equal to the amount payable in accordance with the said table or the amount of the lump sum, as the case may be.

- (c) Where the mine worker would, upon application, be entitled to compensation under the Workers' Compensation Act, 1926-1938, the disqualification under subsection one of this section shall continue until such time as he makes the application and thereafter until such disqualification ceases to have effect pursuant to paragraph (a) or paragraph (b) of this subsection.

Nothing in this paragraph shall be construed as disqualifying the mine worker from receiving a pension by reason only of the fact that proceedings in respect of an injury arising out of and in the course of his employment as a mine worker have been taken independently of the Workers' Compensation Act, 1926-1938.

- (3) Where, either before or after the commencement of this Part, a mine worker who becomes eligible for a pension under section seven of this Act has received or recovered or receives or recovers damages from his employer independently of the Workers' Compensation Act, 1926-1938, in respect of the injury the disqualification under subsection one of this section shall have effect

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

effect until the expiration of a period to be determined in accordance with regulations made in that behalf.

Such regulations shall, as far as practicable, apply to and in respect of such damages the like principles as, under subsection two of this section, are applicable to and in respect of compensation.

Without prejudice to the generality of the power to make regulations, the regulations made in relation to the matters referred to in this subsection may prescribe conditions subject to which such principles shall be so applied and may provide that part only of the amount of such damages is to be taken into account for the purposes of such regulations, and in such case shall prescribe such part or the manner of ascertaining the same.

Deductions  
from  
pensions.

**13.** (1) Any amount which a mine worker or his dependants has or have received, or upon application is or are entitled to receive from any invalid, old-age or war pension or as endowment under the Child Endowment Act 1941 of the Parliament of the Commonwealth or under the Widows' Pensions Act, 1925-1937, as amended by subsequent Acts, or, in the case of a permanently incapacitated mine worker under sixty years of age, from earnings derived or which might be derived from available employment of the nature referred to in subsection two of section seven of this Act in respect of any period for which a pension is payable under this Act, shall be deducted from the amount payable to him or them, as the case may be, as a pension under this Act.

Amendment  
of Act No.  
23, 1925,  
s. 15.

(2) The Widows' Pensions Act, 1925-1937, as amended by subsequent Acts, is amended by inserting at the end of subsection one of section fifteen the following word and new paragraph:—

nor

(c) any pension payable to her or to any of her children pursuant to the Coal and Oil Shale Mine Workers (Pensions) Act, 1941.

Applica-  
tions for  
pensions.

**14.** (1) Every application for a pension—

(a) shall be in or to the effect of the prescribed form;

(b)



---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- (b) shall contain such particulars as may be prescribed;
- (c) shall be verified as prescribed;
- (d) shall be lodged with or forwarded to the Registrar.

(2) Upon receipt of any such application the Registrar shall make or cause to be made such investigations as appear to him desirable or as may be directed, either generally or in any particular case, by the Chairman or by the Tribunal.

*cf. Invalid and Old-Age Pension Act 1908-1935 (Commonwealth), s. 28 (1).*

(3) Upon completion of his investigations the Registrar shall submit the application together with a full report of the result of his investigations to the Tribunal.

*cf. Ibid. s. 29 (1).*

(4) The Tribunal shall thereupon consider the application and the report.

*cf. Ibid. s. 33 (2) and (3).*

(5) The Tribunal may allow or disallow the application or may refer the application to the Workers' Compensation Commission.

(6) The Workers' Compensation Commission shall have jurisdiction to hear and determine any application referred to it under this section.

(7) The power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926-1938, shall extend to the making of rules for regulating the procedure and practice of such Commission in dealing with applications referred to it under this section and for prescribing all matters which are necessary or convenient to be prescribed by such rules in relation to the exercise of the jurisdiction conferred upon that Commission by this section.

(8) The decision of the Workers' Compensation Commission on any application referred to it under this section shall be final and conclusive and shall be binding upon the applicant and the Tribunal.

(9) Where the Tribunal allows the application it shall, in its determination, specify the rate of pension (including any additional amounts) awarded, and the date (whether before or after the date of the application) as from which the pension is to be payable.

(10)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(10) Where the Tribunal refers the application to the Workers' Compensation Commission that Commission shall, in its determination, specify the rate of pension (including additional amounts) awarded, and the date (whether before or after the date of the application) as from which the pension is to be payable.

Any such determination shall be embodied in an order and a copy thereof shall be lodged with the Registrar and filed by him with the records of the Tribunal.

---

PART III.

THE TRIBUNAL.

The  
Tribunal.

**15.** (1) There shall be a Pensions Tribunal which shall exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the Tribunal by this Act and the regulations.

(2) The Tribunal shall consist of five members who shall be appointed by the Governor.

(3) Of the members so appointed—

- (a) one shall be appointed on the nomination of the Minister and shall, in and by the instrument of appointment, be appointed Chairman of the Tribunal;
- (b) one shall be appointed on the nomination of organisations of the owners of coal mines in New South Wales and shall be representative of such owners;
- (c) one shall be appointed on the nomination of organisations of the owners of oil shale mines in New South Wales and shall be representative of such owners;
- (d) one shall be appointed on the nomination of the mining unions and shall be representative of the employees in the coal mining industries of New South Wales;
- (e) one shall be appointed on the nomination of the mining unions and shall be representative of the employees in the oil shale mining industries of New South Wales.

In

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

In this subsection the expression "mining union" means an industrial or trade union of employees or an association of employees registered as an organisation under the Commonwealth Conciliation and Arbitration Act 1904-1934, of the Parliament of the Commonwealth of which union or organisation the membership is comprised of or includes mine workers.

(4) Every nomination shall be made as prescribed and shall be sufficient if made by such organisations of the owners or such of the unions concerned as the Minister deems sufficient.

(5) If no person, or no person able and willing to act as a member of the Tribunal is, within the time prescribed, nominated as the representative of any of the classes of persons referred to in subsection three of this section, the member of the Tribunal representative of such class may be appointed on the nomination of the Minister.

(6) At any meeting of the Tribunal if the question or matter to be considered is—

(a) solely in connection with the coal mining industry or the Coal Mine Workers' Pensions Fund only the Chairman and the two members of the Tribunal representative of the owners of coal mines and of the employees in the coal mining industry shall be entitled to vote;

(b) solely in connection with the oil shale mining industry or the Oil Shale Mine Workers' Pensions Fund only the Chairman and the two members of the Tribunal representative of the owners of oil shale mines and of the employees in the oil shale mining industry shall be entitled to vote;

(c) of a general nature all five members of the Tribunal shall be entitled to vote.

Any question or matter shall be decided by a majority of the members present and entitled to vote, and the decision so arrived at shall be the decision of the Tribunal.

(7)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(7) At any meeting of the Tribunal if the question or matter before the Tribunal is—

- (a) solely in connection with the coal mining industry or the Coal Mine Workers' Pensions Fund, any two of the members entitled to vote at such meeting shall form a quorum;
- (b) solely in connection with the oil shale mining industry or the Oil Shale Mine Workers' Pensions Fund, any two of the members entitled to vote at such meeting shall form a quorum;
- (c) of a general nature any three members (of whom at least one shall be representative of the interests referred to in paragraphs (b) and (c) of subsection three of this section, and at least one shall be representative of the interests referred to in paragraphs (d) and (e) of that subsection) shall form a quorum.

Any meeting at which a quorum is present shall be competent to transact any business of the Tribunal.

(8) (a) The member appointed Chairman of the Tribunal shall, subject to this Act, hold office as such for a period of six years and shall be eligible for re-appointment.

(b) The members of the Tribunal other than the Chairman shall, subject to this Act, hold office as such for a period of three years and shall be eligible for re-appointment.

(9) The office of a member of the Tribunal shall become vacant if he—

- (a) resigns his office by writing under his hand addressed to the Governor;
- (b) without the permission of the Tribunal or the Chairman fails to attend three consecutive meetings of the Tribunal at which he is entitled to vote;
- (c) is removed from office by the Governor for misbehaviour or incompetence;
- (d) becomes bankrupt or assigns his estate for the benefit of his creditors;
- (e)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- (e) is convicted of a felony or misdemeanour;
- (f) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898.

(10) On the occurrence of any vacancy in the office of a member of the Tribunal the person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.

(11) No act or proceeding of the Tribunal shall be invalidated or prejudiced by reason only of the fact that at the time such act or proceeding is done, taken or commenced there is a vacancy in the office of any member.

(12) (a) The Chairman of the Tribunal shall be entitled to receive such remuneration, whether by way of annual salary or by way of fees for meetings attended, as the Governor may determine.

(b) The members of the Tribunal other than the Chairman shall be entitled to receive such remuneration by way of fees for meetings attended as the Governor may determine.

(c) The members of the Tribunal shall be entitled to receive travelling expenses at such rate as the Governor may determine.

(13) The office of Chairman or of member of the Tribunal shall not for the purposes of the Constitution Act, 1902, or of any Act amending that Act, be deemed to be an office or place of profit under the Crown.

**16.** (1) The Governor may, under and subject to the Public Service Act, 1902, as amended by subsequent Acts, appoint a Registrar and such officers and employees as may be necessary for the administration of this Act.

Registrar,  
officers and  
employees.

(2) The Registrar shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the Registrar by or under this Act.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

Powers of Tribunal in respect of inquiries and investigations.  
cf. Child Endowment Act 1941 (Commonwealth), s. 11.

**17.** (1) The Tribunal, or the Chairman or the Registrar, may, for the purposes of any inquiry or investigation which it or he is authorised to make—

- (a) summon witnesses;
- (b) receive evidence on oath; and
- (c) require the production of documents.

(2) A person who has been lawfully summoned to appear before the Tribunal, the Chairman or the Registrar, shall not fail to appear, and a person who appears, whether summoned or not, shall not—

- (a) refuse to be sworn as a witness;
- (b) fail to answer any question he is lawfully required to answer; or
- (c) fail to produce any document he is lawfully required to produce.

(3) Any person who neglects or fails to comply with any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding fifty pounds

---

PART IV.

FUNDS AND CONTRIBUTIONS.

The Funds.

**18.** (1) There shall be established under this Act two funds to be known respectively as the Coal Mine Workers' Pensions Fund and the Oil Shale Mine Workers' Pensions Fund.

(2) (a) The Coal Mine Workers' Pensions Fund shall consist of such moneys as are required or authorised by this Act to be paid into that Fund.

(b) There shall be payable out of the Coal Mine Workers' Pensions Fund all pensions payable to mine workers or to the dependants of mine workers who were employed or engaged in the coal mining industry and to mine workers or the dependants of mine workers who, in the opinion of the Tribunal, were engaged in work associated with that industry.

(3)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(3) (a) The Oil Shale Mine Workers' Pensions Fund shall consist of such moneys as are required or authorised by this Act to be paid into that Fund.

(b) There shall be payable out of the Oil Shale Mine Workers' Pensions Fund all pensions payable to mine workers or the dependants of mine workers who were employed or engaged in the oil shale mining industry and to mine workers or the dependants of mine workers who, in the opinion of the Tribunal, were engaged in work associated with that industry.

(4) The expenses involved in the administration of this Act shall be paid out of the Funds in such proportions as the Tribunal may determine.

(5) The Funds shall be under the control of the Tribunal and shall be operated upon in the manner prescribed.

(6) Any moneys in either of such Funds which are not immediately required for the purposes of that Fund may be invested by the Tribunal in any manner in which trustees are for the time being authorised to invest trust funds.

Any interest from time to time accruing from any such investment shall be paid into the Fund the moneys of which are so invested.

**19.** (1) The Tribunal shall, as soon as practicable after the day appointed and notified for the commencement of Part II of this Act, make an estimate of the amount required by each Fund for the period commencing on the day so appointed and notified and ending on the thirtieth day of June next following 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. Contributions.

The amount to be provided in that period for the reserve in connection with each Fund shall be such amount as the Governor may direct.

(2) The Tribunal shall make an estimate of the amount required by each Fund for the period of twelve months commencing on the first day of July next following the expiration of the period referred to in subsection

one

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

one of this section, and thereafter for each succeeding 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.

The amount to be provided in any year for the reserve in connection with each Fund shall be such amount as the Governor may direct.

Each estimate made under this subsection shall be made not later than the thirty-first day of March next preceding the commencement of the period to which the estimate relates.

(3) (a) A sum equivalent to one-fourth of the total of the amounts estimated by the Tribunal pursuant to subsection one or subsection two of this section or the sum of eighty thousand pounds whichever is the less shall be paid by the Colonial Treasurer to the Tribunal, and shall be apportioned between the respective funds in such proportions as the Colonial Treasurer may direct or, if no such direction is given, as the Tribunal may determine.

(b) The balance of the amount so estimated by the Tribunal in respect of each fund shall be paid to the Tribunal—

- (i) as to one-third part thereof by the mine workers;
- (ii) as to two-third parts thereof by the owners.

(4) Any moneys payable by the Colonial Treasurer under this section shall be paid out of moneys provided by Parliament.

(5) The moneys payable by the owners under this section shall be paid in such manner and at such times as may be prescribed.

Without prejudice to the generality of the foregoing provisions of this subsection regulations may prescribe the basis or bases upon which the contributions of individual owners may be assessed.

(6) The moneys payable by the mine workers under this section shall be paid in such manner and at such times as may be prescribed.

Without prejudice to the generality of the foregoing provisions of this subsection the regulations may prescribe



---

*Coal and Oil Shale Mine Workers (Pensions).*

---

prescribe the basis or bases upon which the contributions of individual mine workers are to be assessed, and may, notwithstanding the provisions of the Truck Act, 1900, or of section ninety-two of the Industrial Arbitration Act, 1940, provide for the collection (by deduction from wages or otherwise) and payment to the Tribunal by the employers of mine workers of any such contributions.

---

PART V.

MISCELLANEOUS.

**20.** (1) Subject to this Act, a pension shall be absolutely inalienable, whether by way or in consequence of sale, assignment, charge, execution, insolvency, or otherwise howsoever: Pensions to be inalienable.

Provided that nothing herein shall be construed to prevent the Tribunal, with or without the consent of the pensioner, from paying the whole or any portion of the pension to any other person for the use of the pensioner or in satisfaction to the extent thereof of any of his just debts or liabilities.

(2) Every person commits an offence and shall be liable to a penalty not exceeding fifty pounds who demands or accepts from any pensioner under this Act any certificate or any acknowledgment or undertaking that would constitute a legal or equitable assignment of or charge upon any pension under this Act if such pension were capable of being legally assigned or charged.

**21.** (1) Where any mine worker who has been awarded a pension pursuant to this Act is sentenced to imprisonment for any period in excess of one month, his pension rights pursuant to this Act shall be suspended during the period of such imprisonment, and any person who would, if the mine worker were dead, have been eligible for a pension under section ten of this Act, shall be eligible for a pension in accordance with that section during the period of such imprisonment as if the mine worker were dead. Suspension of pension rights in certain events—alternative pensions to dependants.

(2) Where any mine worker who is eligible for or who has been awarded a pension pursuant to this Act becomes an insane patient within the meaning of the Lunacy

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

Lunacy Act of 1898, as amended, his pension rights pursuant to this Act shall be suspended while he continues to be such an insane patient, and any person who would, if the mine worker were dead, have been eligible for a pension under section ten of this Act, shall be eligible for a pension in accordance with that section during the period for which the mine worker continues to be an insane patient as if the mine worker were dead, and shall be entitled to retain the whole of the said pension for his own use and benefit absolutely the provisions of any other Act notwithstanding.

(3) The wife of any mine worker eligible for or in receipt of a pension under this Act who has been deserted by her husband or who has been left by him without means of support and who satisfies the Tribunal—

- (a) that she has taken proceedings against her husband for an order under the Deserted Wives and Children Act, 1901-1931, and either that she has failed to obtain an order or that the order, if made, has not been complied with; and
- (b) that the whereabouts of her husband are not known,

shall be eligible for a pension in accordance with section ten of this Act, as if the mine worker were dead, during the period for which she is so deserted or left without means of support.

Where a pension is awarded to a deserted wife pursuant to this subsection the Tribunal may suspend the pension payable to the mine worker or may direct that such pension is to be reduced by the amount of the pension payable to the deserted wife.

Appoint-  
ment of  
person to  
receive  
pension.

**22.** Where a person entitled to payment of a pension under this Act is for any cause unable to give a valid receipt for such payment the Tribunal or the Chairman may direct that payment be made to some person on his behalf, and the receipt of such person for any payment so made shall be a valid discharge.

References to  
Industrial Com-  
mission of New  
South Wales.

**23.** (1) The Minister may refer any question arising under this Act to the Industrial Commission of New South Wales.

(2)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(2) The Industrial Commission of New South Wales shall, for the purpose of hearing and determining any question referred to it under this section, be constituted by a full bench of three judges.

All persons interested and appearing before the Industrial Commission of New South Wales, including the Minister and the Tribunal, shall be entitled to be heard.

(3) The power to make regulations conferred by the Industrial Arbitration Act, 1940, shall extend to the making of regulations for regulating the procedure to be followed in proceedings before the Industrial Commission of New South Wales arising under and pursuant to this section and for prescribing all matters which are necessary or convenient to be prescribed by such regulations in relation to the exercise or discharge of the functions of that Commission under this section.

**24.** (1) Any part of the contributions required to be paid by section nineteen of this Act that is not paid on the due date and all penalties incurred in respect thereof shall constitute a debt due and payable to the Crown, and shall be recoverable in any court of competent jurisdiction by the Chairman of the Tribunal on behalf of the Crown by suit in his official name.

Unpaid contributions recoverable as debt.

(2) If in any proceedings against any person for failure to pay any contribution payable under section nineteen of this Act within the time prescribed the defendant alleges that he is exempt from the obligation to pay the contribution, or that he has paid the contribution, the burden of proving such exemption or payment shall be on him.

**25.** (1) Where it is found that any pension or instalment of a pension which is not payable has been paid or that any sum paid by way of pension or instalment of pension is in excess of the amount so payable, the amount wrongly paid may be recovered as a debt due to the Crown at the suit of the Chairman of the Tribunal in his official name, or, where it is practicable so to do, the Tribunal may make any necessary adjustments in any instalments of the same or any other pension thereafter becoming payable.

Recovery of over-payments of pensions.

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

(2) Nothing in this section shall relieve the person wrongly receiving any such payment from any other liability in respect of any fraud committed by him.

Accounts  
and  
audit.

**26.** (1) The Tribunal shall cause to be kept proper books of account, and shall, as soon as practicable after the thirtieth day of June in each year, prepare and transmit to the Minister for presentation to Parliament statements of accounts in a form approved by the Auditor-General, exhibiting a true and correct view of the financial position and transactions of the Tribunal.

(2) The accounts of the Tribunal shall be audited by the Auditor-General, who shall have, in respect thereof, all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of public accounts; and the Audit Act, 1902, and Acts amending the same, shall apply to the Tribunal, the members of the Tribunal, and the officers and employees concerned in the administration of this Act in the same manner as it applies to accounting officers of public departments.

Actuarial  
investiga-  
tion of  
funds.

**27.** The Minister shall once in every three years, and may at such other times as he thinks fit, cause an examination and report to be made by an actuary appointed by him, upon the assets and liabilities of each of the funds established under section eighteen of this Act.

Advances by  
Treasury.

**28.** For the purpose of providing for the requirements of the funds established under section eighteen of this Act the Colonial Treasurer may, in and for any period in respect of which a contribution is payable by him under section nineteen of this Act, make advances against the contribution payable by him in respect of that period, to either or both of the funds of such amount or amounts (not exceeding in the aggregate the amount of the contribution) as may in his opinion be necessary.

Any such advance shall be in satisfaction in whole or in part of the contribution so payable in respect of that period.

Offences.

**29.** (1) Any person who, for the purpose of obtaining any pension under this Act, for himself or for any other person, or for the purpose of obtaining exemption from any obligation under this Act, for himself or for any other

*Coal and Oil Shale Mine Workers (Pensions).*

other person, makes any false statement to or otherwise misleads or attempts to mislead the Tribunal, the Registrar or any officer concerned in the administration of this Act or the Workers' Compensation Commission of New South Wales or any other person whomsoever or otherwise commits any fraudulent act or omission, shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for twelve months.

(2) Where a person is convicted of an offence under subsection one of this section and it is made to appear that, in consequence of such offence he was wrongly paid any amount by way of pension, the Court may, in addition to the penalty or punishment referred to in that subsection, impose a penalty or additional penalty not exceeding twice the amount so wrongly paid.

**30.** (1) Any penalty imposed by or under this Act or the regulations may be recovered in a summary manner before a stipendiary or police magistrate, or any two justices in petty sessions. Recovery of penalties.

(2) Any magistrate or justices may in any proceedings for a penalty under this Act or the regulations make such order as to the payment of costs as may be thought just, and may assess the amount of such costs.

**31.** All fines and penalties paid or recovered under this Act or the regulations shall be paid to the Tribunal and shall be paid by it into such of the funds as the Tribunal may think fit having regard to the offence in respect of which the fine or penalty was imposed. Fines and penalties to be paid into appropriate Fund.

**32.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

(2) In particular and without prejudice to the generality of subsection one of this section the regulations may—

- (a) prescribe the manner and form of claims for pensions, the persons by whom claims may be made, and the particulars to be furnished in support of such claims;

(b)

---

*Coal and Oil Shale Mine Workers (Pensions).*

---

- (b) prescribe the general conditions governing the allowance of pensions, and the manner in which such allowance is to be signified or evidenced;
- (c) prescribe the general conditions governing the payment of pensions and the manner in which and times at which payment is to be made;
- (d) make provision for the repayment of contributions or part thereof to contributors in such cases (if any) and subject to such conditions as may be prescribed;
- (e) require employers of mine workers to keep records in such manner or in such form as may be prescribed, showing the commencement and cessation of the employment of each mine worker and such other particulars as may be prescribed;
- (f) require any person to whom a pension is payable under this Act, to make full and complete disclosure to the Tribunal in relation to any amounts which, by this Act, are directed to be deducted from the pension so payable, and to make such disclosure in such manner and at such times as the Tribunal may direct either generally or in any particular case or class of cases.

(3) The regulations may impose a penalty not exceeding ten pounds for any breach of the regulations.

(4) Any regulations made under this Act shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication, or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication, if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof such regulation or part shall thereupon cease to have effect.

*In the name and on behalf of His Majesty I assent to this Act.*

WAKEHURST,  
Governor. }

*Government House,  
Sydney, 8th October, 1941.*