

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.

Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, March, 1978.*

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. , 1978.

An Act to amend the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, with respect to the entitlement of mine workers and other persons to benefits under the Act, and in other respects.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

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

5 1. This Act may be cited as the "Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978". Short title.

2. (1) This section, section 1 and Schedule 2 (1) and (2) shall commence on the date of assent to this Act. Commencement.

(2) Except as provided in subsection (1), this Act shall
10 commence on 26th March, 1978.

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

4. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

15 SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

5. The Principal Act is amended in the manner set forth in Schedule 1. Amendment of Act No. 45, 1941.

6. Schedule 2 has effect.

Savings and transitional provisions.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Long title—

Omit “pensions”, insert instead “benefits”.

5 (2) (a) Section 1 (2)—

Omit the matter relating to Part II, insert instead :—

PART II.—COMPULSORY RETIREMENT, AND
BENEFITS—ss. 5–14G.

10 DIVISION 1.—*Compulsory Retirement*—ss. 5,
5A.

DIVISION 2.—*Pension Benefits*—ss. 5B–14.

DIVISION 3.—*Lump Sum Benefits*—ss. 14A–14H.

(b) Section 1 (2)—

15 From the matter relating to Part IVB, omit “19K”,
insert instead “19M”.

(c) Section 1 (2)—

After “SCHEDULE”, insert “1”.

(3) (a) Section 2 (1), definition of “Authorised period”—

20 Before the definition of “Conciliation and Arbitration
Act”, insert :—

25 “Authorised period”, in relation to a person, means
a period declared by the Tribunal under
section 3A to be, with respect to that person,
an authorised period for the purpose of this
Act.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 2 (1), definition of "Reference Rate"—

After the definition of "Prescribed", insert :—

"Reference Rate", as at any particular time, means such rate as the Minister declares in an order under subsection (5) in force as at that time to be the specified rate for the purposes of this definition.

(c) Section 2 (5), (6)—

At the end of section 2, insert :—

(5) Where there is a variation in the weekly rate of wage prescribed for the classification of loaderman in an industrial award applying to the coal mining industry in New South Wales, the Minister, on the recommendation of the Tribunal—

(a) shall, in and by an order published in the Gazette as soon as practicable after the variation is made—

(i) subject to subparagraph (ii)—specify that rate as so varied and declare it to be the specified rate for the purposes of the definition of "Reference Rate" in subsection (1); or

(ii) where there are 2 or more such rates so prescribed—specify one of those rates as so varied and declare it to be the specified rate for the purposes of that definition; and

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT—continued.**

- 5 (b) shall, in the order, specify the date as from which the order takes effect, being the date as from which the specified rate became or becomes payable as wages to loadermen or any class of loadermen,

10 and any previous order made under this subsection shall not be in force in respect of any period commencing on or after the date so specified.

(6) A reference in this Act to a pension—

- 15 (a) at the single man's rate is a reference to a pension payable at a rate specified in Schedule 1 (1); or
(b) at the married man's rate is a reference to a pension payable at a rate specified in Schedule 1 (2).

(4) Section 2E (11)—

20 After section 2 (10), insert :—
(11) No permits issued under this section shall be in force in respect of any period after 25th March, 1978.

(5) Section 3A—

After section 3, insert :—

- 25 3A. (1) Where the Tribunal is satisfied that—
(a) a mine worker has not been engaged in the coal or oil shale mining industries for a period after 25th March, 1978, because his engagement in the industries has been terminated by reason of retrenchment or cavil out or act of God (including fire or flood) or by reason of his ill health;

Authorised periods.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (b) he did not become eligible for a lump sum benefit payment under this Act by virtue of that termination; and

(c) either—

(i) he became engaged in the industries at the earliest reasonable opportunity after that termination; or

10 (ii) no such opportunity arose before the date of retirement,

the Tribunal may declare that period to be, with respect to that mine worker, an authorised period for the purposes of this Act.

15 (2) The Tribunal may refuse to make a declaration under subsection (1) if for any reason the Tribunal thinks it proper to do so or if—

20 (a) the mine worker, as soon as reasonably practicable after the termination of his engagement in the coal or oil shale mining industries, did not notify the Tribunal of that termination; and

25 (b) he did not satisfy the Tribunal, as required from time to time by the Tribunal, that he has taken reasonable steps to secure further employment in the industries.

30 (3) A declaration may be made under subsection (1) subject to such terms and conditions as the Tribunal thinks proper and, if any such term or condition is not complied with, the Tribunal may revoke the declaration either wholly or with respect to any period.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (4) Where a period is, with respect to a mine worker, an authorised period, he shall, for the purposes of this Act (Division 3 of Part II excepted), be deemed to have been during that period—

(a) engaged in the coal or oil shale mining industries;
and

- 10 (b) engaged in work in or about a coal or oil shale mine.

(5) For the purposes of this section, an apprentice whose employment as a mine worker is terminated on completion of his apprenticeship shall be deemed to have been retrenched.

- 15 (6) (a) Section 4 (1) (a)—

Omit “pensions”, insert instead “benefits”.

- (b) Section 4 (2) (c)—

Omit “pension awarded”, insert instead “benefit payable”.

- 20 (c) Section 4 (2) (e)—

Omit “pension”, insert instead “benefit”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) Part II, headings—

Omit the headings, insert instead :—

5

PART II.

COMPULSORY RETIREMENT, AND BENEFITS.

DIVISION 1.—*Compulsory Retirement.*

(8) Section 5A—

After section 5, insert :—

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5A. Where, but for this section, the retiring age of a mine worker would be the age of sixty years, his retiring age shall be the age of sixty-five years, if he is a mine worker of a class prescribed for the purposes of this section :

Extension of
compulsory
retiring
age.

15

Provided that any mine worker to whom this section applies may retire or be retired at any time after he attains the age of sixty years and before he attains the age of sixty-five years :

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Provided further that the provisions of this Act, in their application to and in respect of such a mine worker, shall be deemed to be modified to the following extent, that is to say—sections 5 and 6 shall have and take effect as if the age of sixty-five years or, where he retires or is retired before the age of sixty-five years, the age at which he retires or is retired were substituted for the age of sixty years referred to therein, and references in this Act to the “date of retirement” shall be construed accordingly.

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Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(9) Part II, Division 2, heading—

After section 5A, insert :—

5 DIVISION 2.—*Pension Benefits.*

(10) Section 5B—

Before section 6, insert :—

10 5B. Notwithstanding anything in this Act, where, but ^{Application} for this section, a person would be entitled to a pension ^{of this} under this Act, he shall not be eligible for it unless— ^{Division.}

(a) in the case of a pension under section 6—

(i) he became eligible for the pension before 26th March, 1978; or

15 (ii) he is entitled to no benefit under section 14A;

(b) in the case of a pension under section 7—he is entitled to no benefit under section 14E and his incapacity referred to in section 7 arose before 26th March, 1978;

20 (c) in the case of a pension under section 8—

(i) the date of retirement of the person is before 26th March, 1978; or

25 (ii) he is entitled to no benefit under section 14E and the Tribunal is of the opinion that the pension should be awarded to him on account of an incapacity which arose before 26th March, 1978; or

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(d) in the case of a pension under section 10 or
10A —

5 (i) the death of the person in consequence of
which the pension is payable occurred
before 26th March, 1978; or

10 (ii) the death of the pensioner in consequence
of which the pension is payable occurred
on or after 26th March, 1978.

(11) (a) Section 6B (1)—

Omit “this section”, insert instead “section 6A”.

(b) Section 6B (2), (3)—

Omit the subsections.

15 (c) Section 6B (5)—

Omit the subsection.

(12) Section 6C (2) (c)—

20 Omit “a permit” where firstly occurring, insert instead “if
his employment was so terminated before 26th March, 1978
—a permit”.

(13) Section 8 (1)—

After “Part” where firstly occurring, insert “(other than
section 5B)”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(14) Section 8A—

After section 8, insert :—

- 5 8A. (1) A person who is in receipt of, or eligible to receive, a pension under section 6, 7 or 8 is entitled to receive that pension at the married man's rate—
- Entitle-
ment to
mine
worker's
pension at
the married
man's rate.
- (a) if he is a married man; or
- 10 (b) if he is not so entitled by virtue of paragraph (a),
and if one female is dependent on his earnings,
and if she—
- (i) is an adult and is caring for any child or
step-child of the mine worker under the
age of 16 years; or
- 15 (ii) is a member of the mine worker's family
and is over the age of 16 years,
but only until her death or marriage or until she
ceases to be such a dependant.

- 20 (2) For the purposes of this section, a person is
dependent on a mine worker during any period only if the
Tribunal is satisfied that the person was totally or mainly
dependent for financial support on the mine worker during
that period.

(15) (a) Section 9 (1)—

- 25 Omit "section 6B,".

(b) Section 9 (1) (a)—

Omit the paragraph.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—continued.

AMENDMENTS TO THE PRINCIPAL ACT—continued.

(c) Section 9 (1) (b)—

5 Omit “who is or becomes totally dependent on his earnings”.

(d) Section 9 (1) (c)—

Omit the paragraph.

(e) Section 9 (1A), (1B)—

Omit the subsections.

10 (f) Section 9 (5)—

Omit “section 6B,”.

(g) Section 9 (5)—

15 After “section 8,” insert “and whose pension is payable to him at the married man’s rate specified in Column 5 of Schedule 1 (2),”.

(h) Section 9 (5)—

20 Omit “, where the wife is in receipt of or entitled to receive age or invalid pension under the Social Services Act, in lieu of the amount referred to in paragraph (a) of subsection (1),”.

(i) Section 9 (5)—

25 Omit “plus an amount per week equal to the amount (if any) by which the amount per week payable as an addition to a pension pursuant to paragraph (a) of subsection (1) exceeds the maximum rate per week applicable in the circumstances and fixed by or in accordance with the Social Services Act for age or invalid pension”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(j) Section 9 (5A)—

Omit “section 6B,”.

5 (k) Section 9 (5A)—

10 Omit “who is not eligible for an addition to his pension pursuant to paragraph (a) or (c) of subsection (1) or pursuant to subsection (5)”, insert instead “whose pension is payable to him at the single man’s rate specified in Column 5 of Schedule 1 (1)”.

(l) Section 9 (6)—

Omit “section 6B,”.

(16) (a) Section 10 (1) (a)—

Omit “section 6B,”.

15 (b) Section 10 (1)—

Omit “an addition to his pension under paragraph (c) of subsection (1) of section 9”, insert instead “his pension at the married man’s rate”.

(17) (a) Section 10A (1) (b) (i)—

20 Omit “section 6B,”.

(b) Section 10A (1)—

After “section 9” where secondly occurring, insert “of this Act as in force at any time before 26th March, 1978,”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 10A (1A)—

After section 10A (1), insert :—

5 (1A) For the purposes of section 8A, where the
Tribunal is satisfied that at the date upon which a
mine worker is awarded a pension under this Act any
female was recognised as his wife although not legally
10 married to him, she shall, if the Tribunal so approves,
be deemed to be his wife.

(d) Section 10A (6)—

After section 10A (5), insert :—

15 (6) For the purposes of this Division and notwith-
standing anything contained therein, the Tribunal
shall, as far as practicable, treat a couple, whether
married or not, in such a way as, in the opinion of
the Tribunal, is consistent with the way they are
treated for the purposes of the Social Services Act or
any other prescribed law of the Commonwealth.

20 (18) Section 10EA—

Omit the section, insert instead :—

10EA. (1) For the purposes of any provision of this Act in which there is a reference to the appropriate amount per week payable as a pension or addition to a pension, the appropriate amount per week payable to or in respect of a person who is described in Column 3 of Schedule 1 shall—

25

Appropriate amounts of pensions and additions thereto.

(a) in the case of a person who is in receipt of, or eligible to receive, the pension or addition referred to in any such description on 26th March, 1978—be, as from that date; or

30

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

*SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT—continued.*

- 5 (b) in the case of a person who becomes eligible therefor after that date—be, as from the date on which he becomes so eligible,

as follows :—

- (c) until—
- 10 (i) except in the case of a person referred to in subparagraph (ii) or (iii)—the day immediately preceding the first mine workers' pension pay period occurring after the expiration of the period of 5 years commencing on the date on which the pension concerned became payable;
- 15 (ii) in the case of a person who is in receipt of a pension under section 7 or 8 and who has not at the first mine workers' pension pay period occurring after the expiration of the period of 5 years
- 20 referred to in subparagraph (i) attained the age of 60 years—the day immediately preceding the first mine workers' pension pay period occurring after the day on which he attains that age; or
- 25 (iii) in the case of a person who is in receipt of a pension at the Special Rate of Pension referred to in the Second Schedule to the Repatriation Act 1920 of the Parliament of the Commonwealth as amended by subsequent Acts of that
- 30 Parliament, or of any other prescribed class of pension under a law of the Commonwealth, and who has not

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 attained the age of 65 years—the day immediately preceding the first mine workers' pension pay period after the day on which he attains that age,

 the amount specified in Column 4 of Schedule 1 opposite the relevant description; and

10 (d) thereafter, the rate specified in Column 5 of that Schedule opposite that description.

 (2) For the purposes of determining any period of 5 years referred to in subsection (1) (c), periods before 26th March, 1978, as well as periods after 25th March, 1978, shall be taken into account.

15 (3) Where, but for this subsection, a pension would be payable at 26th March, 1978, to a person at the rate specified in Column 5 of Schedule 1 (1), (2) or (3) and the amount of the pension would be less than the amount that would be payable as a pension (together with
20 any addition under section 9 (1) (a) or (c)) had the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, not been enacted, then subsection (1) (c) shall be construed as if it provided for 23rd September, 1978, to be the day until which the relevant
25 amount specified in Column 4 of Schedule 1 is payable.

 (4) Where, but for this subsection, the period of 5 years referred to in subsection (1) (c) applicable to a person expires after 26th March, 1978, but before 24th September, 1978, subsection (1) (c) shall be construed
30 as if it provided for 23rd September, 1978, to be the day until which the relevant amount specified in Column 4 of Schedule 1 is payable.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT—continued.**

5 (5) Notwithstanding subsections (1), (3) and
(4), where, but for this subsection, a pension would be
payable at 23rd September, 1978, to a person referred to
in subsection (1) (c) (ii) at the rate specified in Column
5 of Schedule 1 (1) or (2) and the person was, in the
opinion of the Tribunal, not at that date eligible for a
pension under any law of the Commonwealth, then sub-
10 section (1) (c) shall, if the Tribunal in its discretion so
directs, be construed as if it provided for the day immedi-
ately preceding the first mine workers' pension pay period
occurring after—

15 (a) the day on which he attains the age of 65 years;
or

(b) the day as from which, in the opinion of the
Tribunal, he became eligible for a pension under
any law of the Commonwealth,

20 whichever first occurs, to be the day until which the relevant
amount specified in Column 4 of Schedule 1 is payable.

(6) For the purposes of this section, a person in
receipt of, or eligible to receive, a pension under section 6,
7 or 8 for any period before 26th March, 1978, shall—

25 (a) be deemed to have been in receipt of the pension
at the single man's rate for any part thereof
during which he did not receive, or was not
eligible for, an addition under section 9 (1) (a)
or (c) of this Act as in force at any time before
that date; and

30 (b) be deemed to have been in receipt of the pension
at the married man's rate for any part thereof
during which he received, or was eligible for,
such an addition.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) For the purposes of determining any period of 5 years referred to in subsection (1) (c)—

- 5 (a) any period during which a person received a pension at the single man's rate shall be deemed also to be a period during which he received a pension at the married man's rate;
- 10 (b) any period during which a person received a pension at the married man's rate shall be deemed also to be a period during which he received a pension at the single man's rate; and
- 15 (c) any period during which a person received a pension at the married man's rate shall be deemed also to be a period during which his widow, or a female treated under this Act as his wife, received a pension.

(8) Nothing in this section affects anything contained in section 11A.

20 (19) (a) Section 10F (1)–(3)—

Omit the subsections, insert instead :—

25 (1) Where there is a variation in the amount of the Reference Rate, the Minister, on the recommendation of the Tribunal, shall, by order published in the Gazette as soon as practicable after the variation, amend Column 4 of Schedule 1—

- 30 (a) by omitting the reference to the amount in Item (1) and by inserting instead a reference to the amount that equals 35 per cent. of the Reference Rate;
- (b) by omitting the reference to the amount in Item (2) and by inserting instead a reference to the amount that equals 50 per cent. of the Reference Rate;

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (c) by omitting the reference to the amount in Item (3) and by inserting instead a reference to the amount that equals 30 per cent. of the Reference Rate; and
- 10 (d) by omitting the reference to the amount in Item (4) and by inserting instead a reference to the amount that equals 5 per cent of the Reference Rate.
- 15 (2) Where the age pension payable to a single pensioner under the Social Services Act is varied, or there is a variation in the amount of the Reference Rate, the Minister, on the recommendation of the Tribunal, shall, by order published in the Gazette as soon as practicable after the variation, amend Column 5 of Schedule 1—
- 20 (a) by omitting the reference to the amount in Item (1) and by inserting instead a reference to the amount that equals the amount specified in Column 4 of the Item, reduced by the amount of the maximum weekly rate of age pension payable under the Social Services Act for a single pensioner;
- 25 (b) by omitting the reference to the amount in Item (2) and by inserting instead a reference to the amount that equals the amount specified in Column 4 of the Item, reduced by the amount of the maximum weekly rate of the age pension payable under the Social
- 30 Services Act for married couple pensioners;
- 35 (c) by omitting the reference to the amount in Item (3) and by inserting instead a reference to the amount that equals the amount specified in Column 4 of the Item, reduced

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 by the amount of the maximum weekly rate of age pension payable under the Social Services Act for a single pensioner; and
- (d) by omitting the reference to the amount in Item (4) and by inserting instead a reference to the amount that equals the amount specified in Column 4 of the Item.
- 10 (b) Section 10F (4)—
Omit “the Schedule”, insert instead “Schedule 1”.
- (c) Section 10F (5)—
After “before”, insert “, on”.
- (d) Section 10F (7)—
- 15 Omit “or 13”.
- (e) Section 10F (8), (9)—
After section 10F (7), insert :—
- 20 (8) Where there is a variation in the amount of the Reference Rate, a reference in subsection (2) to the amount specified in Column 4 of an Item of Schedule 1 is a reference to such amount as is, in accordance with subsection (1), inserted or to be inserted in that Column in consequence of that variation.
- 25 (9) Notwithstanding anything in this section, any amount to be inserted in Schedule 1 in pursuance of this section may be rounded off in such manner as the Minister, on the recommendation of the Tribunal, thinks proper, but so that the variation authorised by
- 30 this subsection does not exceed 5 cents.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.SCHEDULE 1—continued.AMENDMENTS TO THE PRINCIPAL ACT—continued.

(20) (a) Section 10G—

5 Omit “Item 1 of the Schedule”, insert instead
“Schedule 1 (1) or (2)”.

(b) Section 10G (a)—

Omit the paragraph, insert instead :—

(a) 26th March, 1978; or

(21) Section 10H—

10 After section 10G, insert :—

15 10H. (1) Notwithstanding anything in this Division, where a person entitled to receive a pension under this Act would, in the opinion of the Tribunal, thereby be prejudicially affected in respect of any benefits otherwise receivable by that person, the amount of the pension payable shall be such lesser amount than that provided for under this Division as the Tribunal from time to time determines.

Suspension
of part of
pension in
certain
circum-
stances.

20 (2) Where the Tribunal reduces, under subsection (1), the amount of a pension, the amount by which the pension is so reduced shall be payable in respect of such periods or at such times by way of lump sum or otherwise as the Tribunal from time to time determines.

(22) Section 11 (1)—

Omit “section 6B.”.

25 (23) Section 11A (1)—

30 Omit “and the addition to a pension payable under paragraph (a) or (c) of subsection (1) of section 9”, insert instead “(together with, in relation to any period before 26th March, 1978, the amount (if any) of the addition to the pension payable under section 9 (1) (a) or (c) of this Act as in force at any time before that date)”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(24) Section 13—

Omit the section.

5 (25) (a) Section 14 (1) (a)—

Omit “the prescribed form”, insert instead “a form approved by the Tribunal”.

(b) Section 14 (1) (b)—

10 Omit “prescribed”, insert instead “approved by the Tribunal”.

(c) Section 14 (1) (c)—

Omit “as prescribed;”, insert instead “by statutory declaration; and”.

(26) Part II, Division 3—

15 Before Part III, insert :—

DIVISION 3.—*Lump Sum Benefits.*

20 14A. (1) A mine worker whose date of retirement is on or after 26th March, 1978, is, on retirement, entitled to a lump sum benefit payment at the rate prescribed by this section—

Lump sum
benefit
payments
to
retired
mine
workers.

(a) if every part of the period of 10 years immediately before the date of retirement was either a period when he was engaged in the coal or oil shale mining industries or an authorised period; and

25

(b) if he has been engaged in the industries for a period of not less than 10 years or for 2 or more periods together amounting to not less than 10 years.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT—continued.**

5 (2) A person entitled to a lump sum benefit under this section is entitled to payment thereof at the rate of the prescribed amount for each completed calendar month of service in the coal or oil shale mining industries.

10 (3) In subsection (2), "the prescribed amount", in relation to a person entitled to a lump sum benefit payment under this section, means the prescribed amount, referred to in section 14B, as at that person's date of retirement.

15 (4) The amount of any lump sum benefit payment otherwise payable to any person under this section shall not include payment for any period of engagement in the coal or oil shale mining industries before 21st November, 1941, unless evidence of his engagement in those industries satisfactory to the Tribunal has been furnished to the Tribunal.

20 (5) Where a person is a mine worker by virtue of any extension, by or under section 2A or any following section, of the definition of "Mine worker" in section 2 (1), the amount of any lump sum benefit payment otherwise payable to that person under this section shall not include payment for any period of engagement in the coal or oil shale mining industries before he became liable to and did
25 commence to contribute to the Fund.

 (6) The amount of any lump sum benefit payment otherwise payable to any person under this section shall not include payment for any period of engagement in the coal or oil shale mining industries in respect of which—

30 (a) a pension or addition thereto is or was payable under this Act to or in respect of him or consequent upon his death; or

 (b) a lump sum benefit payment has already been made under this Act to or in respect of him.

*Coal and Oil Shale Mine Workers (Superannuation) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) The amount of any lump sum benefit payment otherwise payable to any person under this section shall not include payment for—

(a) any period of engagement in the coal or oil shale mining industries in respect of which a refund of his contributions has been made under this Act; or

(b) any period before that referred to in paragraph (a).

14B. (1) For the purposes of section 14A, the prescribed amount is, subject to the following provisions of this section, \$100.

Prescribed amount for purposes of section 14A.

(2) Where a variation of the Reference Rate takes effect under section 2 (5) on or after 26th March, 1978, but before 26th March, 1979, and that variation was not made after 26th March, 1979, the Minister, on the recommendation of the Tribunal, shall, by an order published in the Gazette as soon as practicable after the variation—

(a) vary the prescribed amount in line with and by the same percentage as the Reference Rate was varied; and

(b) specify the date as from which the variation takes effect, being the date the variation of the Reference Rate takes effect.

(3) After 26th March, 1979, the Minister, on the recommendation of the Tribunal (made by it after taking into consideration the recommendation of the actuary

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

*SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT—continued.*

5 made in connection therewith and contained in a report furnished under section 27), may, by an order published in the Gazette—

(a) vary the prescribed amount; and

(b) specify the date as from which the variation takes effect.

10 (4) A date specified in an order published under subsection (2) or (3) may be a date that is before, on or after the date of publication of the order in the Gazette, and, in the case of an order published under subsection (3), before, on or after 26th March, 1979.

15 (5) A variation shall not be made under subsection (3) that would result in the prescribed amount being greater than it would be if it were varied in line with and by the same percentage as variations in the Reference Rate.

20 (6) Where, but for this subsection, the prescribed amount would include a fraction of a cent, that fraction shall, if less than half a cent, be disregarded, or shall, if half a cent or more, be treated as 1 cent.

25 14c. (1) Where a person whose date of retirement was on or after 7th November, 1977, but before 26th March, 1978, is in receipt of or eligible for a pension under section 6, he is, on application made to the Tribunal before 26th May, 1978, entitled to the lump sum benefit payment to retired mine workers: special provisions.

30 (a) had the amendments made by the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, been in force at the date of retirement; and

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) had the reference in section 14A (1) to 26th March, 1978, been a reference to the date of retirement,

but reduced by the amount of any pension or additions thereto paid to or in respect of him, or consequent upon his death, since the date of retirement.

- (2) For the purposes of subsection (1), section 14A (6) (a) does not apply to any pension or addition paid to or in respect of the person referred to in subsection (1), or consequent upon his death, since the date of retirement.

- (3) Upon payment of a lump sum benefit pursuant to an application made by a person under this section, no pension or addition thereto is thereafter payable to or in respect of him or consequent upon his death.

(4) The Tribunal—

- (a) may refrain from approving an application under this section during the period of 139 days after the date of retirement of the applicant, although satisfied that the application is such as may otherwise be approved; but

- (b) shall not, in any case, approve such an application before 26th May, 1978.

- (5) If a person dies after making an application under this section, but before payment of the lump sum benefit, the benefit shall, when the application is approved, be paid to his personal representatives.

- (6) An application under this section may be withdrawn at any time before it is approved.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

14D. (1) In this section—

Lump sum
benefit
payment
on death
of mine
worker.

5 “child”, in relation to a mine worker referred to in
subsection (2), means his child or step-child
under the age of 18 years;

10 “prescribed dependent amount”, in relation to a mine
worker referred to in subsection (3), means the
amount that equals 240 times the amount that is
the prescribed amount (as referred to in section
14B) as at the date of his death;

“relative” means brother, sister, step-brother, step-
sister, grandmother, grandfather, grandson or
granddaughter.

15 (2) Where a mine worker dies on or after 26th
March, 1978, while engaged in the coal or oil shale mining
industries or during an authorised period, and a lump sum
benefit has not been paid or is not payable under any other
20 section of this Division to or in respect of the mine worker
or consequent upon his death—

(a) his widow is entitled to a lump sum benefit pay-
ment of the prescribed dependent amount;

25 (b) if a benefit is payable under paragraph (a)—
each of his dependent children is entitled to a
lump sum benefit payment as follows :—

30 (i) where there are not more than 3 depen-
dent children—the lump sum benefit for
each such child is an amount equal to
one-third of the prescribed dependent
amount; or

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT—continued.**

- 5 (ii) where there are more than 3 dependent children—the lump sum benefit for each such child is an amount equal to the prescribed dependent amount divided by the number of such dependent children;
- 10 (c) if a benefit is not payable under paragraph (a)—each of his dependent children is entitled to a lump sum benefit payment as follows :—
- 15 (i) where there are not more than 3 dependent children—the lump sum benefit for each such child is an amount equal to two-thirds of the prescribed dependent amount; or
- 20 (ii) where there are more than 3 dependent children—the lump sum benefit for each such child is an amount equal to twice the prescribed dependent amount divided by the number of such dependent children; and
- 25 (d) if there are fewer than 3 dependent children—
- 30 (i) each of his dependent parents is entitled to a lump sum benefit payment of three-quarters of the prescribed dependent amount;
- (ii) each of his dependent relatives is entitled to a lump sum benefit payment of one-half of the prescribed dependent amount; and
- 35 (iii) each of his other dependants is entitled to a lump sum benefit payment of one-quarter of the prescribed dependent amount, unless entitled to a benefit under any other provision of this subsection.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (3) For the purposes of this section, a person is dependent on a mine worker referred to in subsection (2), only if the Tribunal is satisfied that the person was totally or mainly dependent for financial support on the mine worker at the date of the mine worker's death or, in the case of a child of the mine worker, that the child had not attained the age of 16 years at that date.
- 10 (4) Where the wife of a mine worker referred to in subsection (2) dies—
- (a) at the same moment as he dies or in circumstances rendering it uncertain which of them survived the other; or
- 15 (b) within 48 hours before he dies, she shall, for the purposes of this section, be deemed to have been alive at the time of his death.
- 20 (5) For the purposes of this section, where there is no wife or widow of a mine worker referred to in subsection (2), a woman who was recognised as his wife although not legally married to him shall, if the Tribunal so approves, be deemed to be his wife or widow.
- 25 (6) The lump sum benefit to which a child is entitled under this section is payable to one of the child's parents or guardians for the child's support and education or to the child as soon as practicable after his attaining the age of 18 years.
- 30 (7) The maximum total amount payable under this section consequent upon the death of a mine worker shall not exceed double the prescribed dependent amount, and where, but for this subsection, that amount would be exceeded, the benefits payable under subsection (2) (d) shall, to the necessary extent, be reduced proportionately or, if necessary, not be paid.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

14E. (1) Where a mine worker—

(a) proves to the satisfaction of the Tribunal—

Lump sum
benefit
payment
for
disabled
mine
workers.

(i) that he has been incapacitated by injury during a period when he was engaged in the coal or oil shale mining industries;

(ii) that by reason of his incapacity he is unable to continue his engagement in those industries and that the date of his disability was on or after 26th March, 1978; and

(iii) that the incapacity is likely to be permanent and is of a major and effectively disabling kind;

(b) has not been awarded a pension under section 6, and is not entitled to a lump sum benefit payment under section 14A, in respect of the incapacity; and

(c) has submitted himself to any examination required under subsection (3),

he is entitled to a lump sum benefit payment of the amount determined under subsection (2).

(2) The amount of a lump sum benefit payable under this section is—

(a) where the Tribunal is satisfied that the incapacity was caused by injury as a mine worker—an amount equal to the amount that would have been payable to him under section 14A—

(i) had he continued being engaged in the coal or oil shale mining industries until the date of retirement;

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5

- (ii) had section 14A (1) (a) and (b) not been enacted; and
 - (iii) had the reference in section 14A (3) to his date of retirement been a reference to the date of his disability; or
- 10

- (b) in any other case—an amount equal to a percentage of the amount referred to in paragraph (a), being 10 per cent. of that amount, together with a further 10 per cent. for each completed year of his engagement in the coal or oil shale mining industries before the date of his disability, to a maximum of 100 per cent.
- 15

- (3) The Tribunal may require an applicant for payment of a lump sum benefit under this section to submit himself to examination by a panel of 3 medical practitioners nominated by the Tribunal and the Tribunal shall, in making any such nomination, have regard to any representations made in regard thereto by the applicant.
- 20

- (4) A person is not entitled to a lump sum benefit payment where the incapacity was caused by his act or default intended by him to produce that incapacity.
- 25

- (5) For the purposes of this section, the date on which a person's incapacity arises and the date of his disability shall be deemed to be such date or dates as may be determined by the Tribunal, and the Tribunal shall, in making a determination under this subsection, have regard to all the circumstances of the case, including—
- 30

- (a) his medical and employment history; and
 - (b) the date on which he ceased to be able to be effectively employed as a mine worker.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) In this section, a reference to—

(a) injury includes a reference to illness; and

(b) the date of a mine worker's disability is a reference to the date on which he becomes unable to continue his engagement in the coal or oil shale mining industries by reason of incapacity referred to in this section.

14F. (1) Where a person, who is in receipt of or eligible for a pension under section 7 or 8 by reason of incapacity, became eligible for the pension on or after 7th November, 1977, but before 26th March, 1978, he is, on application made to the Tribunal before 26th May, 1978, entitled to the lump sum benefit payment to which he would have been entitled under section 14E—

Lump sum
benefit
payment for
disabled
mine
workers:
special
provisions.

(a) had the amendments made by the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, been in force at the date he became eligible for the pension; and

(b) had the words "has not been awarded a pension under section 6, and" been omitted from section 14E (1) (b),

but reduced by the amount of any pension or additions thereto paid for or in respect of him, or consequent upon his death, since he became eligible for the pension.

(2) For the purposes of subsection (1), section 14A (6) (a) does not apply to any pension or addition paid to or in respect of the person referred to in subsection (1), or consequent upon his death, since the date he became eligible for the pension.

(3) Upon payment of a lump sum benefit pursuant to an application made by a person under this section, no pension or addition thereto is thereafter payable to or in respect of him or consequent upon his death.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) The Tribunal—

- 5 (a) may refrain from approving an application under this section during the period of 139 days after the date the applicant became eligible for the pension, although satisfied that the application is such as may otherwise be approved; but
- 10 (b) shall not, in any case, approve such an application before 26th May, 1978.

(5) If a person dies after making an application under this section, but before payment of the lump sum benefit, the benefit shall, when the application is approved, be paid to his personal representatives.

- 15 (6) An application under this section may be withdrawn at any time before it is approved.

14G. For the purposes of this Division, a mine worker shall not be deemed to be “engaged in the coal or oil shale mining industries” by reason of the operation of section 2 (2) (b) or (c). Certain periods not be counted.

20

14H. (1) Every application for a lump sum benefit payment— Applications for lump sum benefit payment.

- (a) shall be in or to the effect of a form approved by the Tribunal;
- 25 (b) shall contain such particulars as may be approved by the Tribunal;
- (c) shall be verified by statutory declaration; and
- (d) shall be lodged with or forwarded to the Registrar.

- 30 (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.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (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.

(4) The Tribunal shall thereupon consider the application and report.

10 (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.

15 (7) The power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926, shall extend to the making of rules for regulating the procedure and practice of the Commission in dealing with applications referred to it under this section and for prescribing all matters which are necessary or
20 convenient to be prescribed by rules in relation to the exercise of the jurisdiction conferred upon the Commission by this section.

(8) The decision of the Workers' Compensation Commission on any application referred to it under this
25 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 number of completed
30 calendar months of employment as a mine worker in respect of which the lump sum benefit payment is payable under this Act.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (10) Where the Tribunal refers the application to the Workers' Compensation Commission, the Commission shall, in its determination, specify the number of completed calendar months of employment as a mine worker in respect of which the lump sum benefit payment is payable under this Act.

10 (11) Any determination of the Commission under this section 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.

(27) Section 18 (2) (b)—

Omit the paragraph, insert instead :—

15 (b) There shall be payable out of the Fund all pensions, additions to pensions, lump sum benefit payments and refunds of contributions authorised to be paid under this Act.

(28) (a) Section 19 (1)–(4)—

20 Omit the subsections, insert instead :—

(1) Contributions shall be payable to the Fund in respect of each mine worker at—

(a) the rate per week of 10 per cent. of the Reference Rate; or

25 (b) such other rate per week as may from time to time be fixed by the Minister, by order published in the Gazette, after taking into consideration a recommendation of the Tribunal made by it after—

30 (i) taking into consideration a report of the actuary furnished under section 27; and

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (ii) consultation between it and representatives of such organisations of mine workers and owners as the Minister considers appropriate.

(2) Contributions under subsection (1) shall be payable in respect of mine workers—

- 10 (a) as to one-quarter thereof—by the mine workers; and

- (b) as to three-quarters thereof—by the owners.

15 (2A) For the purpose of providing any additional funds necessary to make provision for or towards the payment of benefits under this Act for such period after 26th March, 1978, as the Minister, on the recommendation of the Tribunal, thinks fit, special contributions shall, in addition to the contributions payable by the owners under the foregoing provisions of this section, be payable to the Fund by the owners in respect of each mine worker—

- 20 (a) at the rate of 5.5 per cent. of the Reference Rate; or

- 25 (b) at such lower rate as may from time to time be fixed by the Minister, by order published in the Gazette, on the recommendation of the Tribunal made by it after—

- (i) taking into consideration a report of the actuary furnished under section 27; and

- 30 (ii) consultation between it and representatives of such organisations of mine workers and owners as the Minister considers appropriate.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

*SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT—continued.*

5 (3) The Minister, on the recommendation of the Tribunal, shall, in an order made under subsection (1) or (2A), specify the date as from which the order shall take effect.

10 (3A) In an order made under subsection (1) or (2A), different dates may be specified for the purposes of subsection (3) in respect of different classes of mine workers, and the dates so specified may be dates before, on or after the date of publication of the order in the Gazette.

15 (4) There shall be payable to the Fund by the Treasurer, out of money provided by Parliament, the following amounts :—

(a) for the year commencing on 1st July, 1977
—\$48,000;

(b) for the year commencing on 1st July, 1978
—\$32,000; and

20 (c) for the year commencing on 1st July, 1979
—\$16,000.

(b) Section 19 (4A)—

Omit the subsection.

(c) Section 19 (5)—

25 Omit "Without prejudice to the generality of the foregoing provisions of this subsection regulations may prescribe the basis or bases upon which the contribution of individual owners may be assessed."

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(d) Section 19 (6)—

5 Omit “Without prejudice to the generality of the foregoing provisions of this subsection the regulations may prescribe the basis or bases upon which the contributions of individual mine workers are to be assessed, and”, insert instead “The regulations”.

(e) Section 19 (6)—

10 Omit “such contributions”, insert instead “such moneys”.

(f) Section 19 (8)—

Omit the subsection.

(29) Section 19A (3)—

15 Omit “, 6B”.

(30) (a) Section 19B (1) (b)—

Omit “, 6B”.

(b) Section 19B (2) (a)—

20 Omit “sections 11A and 13”, insert instead “section 11A”.

(c) Section 19B (2)—

Omit “, 6B”.

(d) Section 19B (6)—

At the end of section 19B, insert :—

25 (6) Subsections (1) (b) and (2) (a) do not apply to or in respect of a mine worker entitled to a lump sum benefit payment under Division 3 of Part II.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(31) Section 19J (1)—

5 After “terminated” where firstly occurring, insert “before
26th March, 1978.”.

(32) Section 19K—

Omit “this Part” wherever occurring, insert instead “section
19J”.

(33) Sections 19L, 19M—

10 After section 19K, insert :—

19L. (1) Subject to this Part, where a mine worker's
engagement in the coal or oil shale mining industries has
been terminated on or after 26th March, 1978, and the
Tribunal is satisfied—

15 (a) that—

(i) where his engagement was so terminated
otherwise than by reason of his death and
he has not died thereafter—he is not
eligible for a pension or entitled to a lump
sum benefit payment under this Act;

20 (ii) where his engagement was so terminated
by reason of his death—no person is
eligible for a pension or entitled to a lump
sum benefit payment under this Act
consequent upon his death; or

25 (iii) where his engagement was so terminated
otherwise than by reason of his death and
he has died thereafter—he was not, after
that termination of his engagement,
eligible for a pension or entitled to a lump
30

Refund of
contributions
where mine
worker
ceases to be
employed on
or after
26.3.1978.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

sum benefit payment under this Act, and
no person is eligible for a pension under
this Act consequent upon his death; and

- (b) that he has, being liable to do so, paid contributions to the Fund for a period of not less than one year immediately before that termination of his engagement,

the Tribunal shall, on application made by the mine worker or his personal representatives, refund to him or them an amount equal to the total amount of the mine worker's contributions to the Fund in respect of the period or periods during which he was engaged in those industries, together with interest thereon under subsection (6).

(2) Where a mine worker's engagement in the coal or oil shale mining industries has been terminated otherwise than by reason of his death, no refund shall be made under this section consequent upon that termination of his engagement unless—

- (a) he or, if the Tribunal is satisfied that he, being alive, is unable for any reason to do so, some other person on his behalf, makes application therefor within the period of one year after that termination; or

- (b) if he dies within that period without any application having been made therefor under paragraph (a)—his personal representatives make application therefor within the period of one year after his death.

(3) Where a mine worker's engagement in the coal or oil shale mining industries has been terminated by reason of his death, no refund shall be made under this

*Coal and Oil Shale Mine Workers (Superannuation) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 section consequent upon that termination of his engagement unless his personal representatives make application therefor within the period of one year after his death.

10 (4) Any period during which a person was engaged in the coal or oil shale mining industries shall be disregarded for the purposes of subsection (1) if a pension or lump sum benefit payment is payable under this Act after the termination of his engagement in those industries by reference to that period.

15 (5) Where a refund of a mine worker's contributions paid to the Fund in respect of a period or periods is made under this section, the mine worker shall, for the purposes of Division 2 of Part II, be deemed to have been engaged, during that period or those periods, otherwise than in those industries.

20 (6) The interest payable on the amount of refunded contributions is the total of the interest payable, on the balance of the contributions as at 30th June in each year, at the rate per annum payable as at that date by the Commonwealth Savings Bank in respect of corresponding amounts in a savings account, but so that no interest on interest is payable.

25 19M. The reference in section 19L (1) to the total amount of a mine worker's contributions to the Fund is a reference to those contributions as reduced by such of the following amounts as may be applicable :—

Reduction
of amount
of refund
under
section
19L.

30 (a) an amount equal to so much of his contributions to the Fund as were previously refunded to or in respect of him under this Part (excluding any of his contributions that have been repaid to the Fund, as referred to in section 10AA);

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (b) an amount equal to any contributions paid by him to the Fund in respect of any period before 25th May, 1971.

(34) Section 22—

After “pension”, insert “or a lump sum benefit payment”.

(35) (a) Section 25 (1)—

- 10 After “pension” where secondly occurring, insert “or any lump sum benefit payment or any part thereof”.

(b) Section 25 (1)—

After “pension” where fourthly occurring, insert “or lump sum benefit payment”.

(36) Section 27—

- 15 Omit the section, insert instead :—

27. (1) The Minister shall, from time to time, appoint an actuary for the purpose of making investigations and reports on the state, sufficiency, assets and liabilities of the Fund and the Subsidy Fund established under Part IVA. Actuarial investigation and report.

- 20 (2) The Tribunal shall arrange for such an investigation and report to be made as at 26th March, 1979, and thereafter at intervals of not more than 3 years.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) Any such report shall—

- 5 (a) contain an analysis of the assets and liabilities of the Fund and Subsidy Fund, and the sufficiency of the Fund having regard to the current and likely future level of contributions, pensions, additions to pensions, lump sum benefit payments and any other factors which the actuary or Tribunal considers relevant;
- 10 (b) include recommendations as to any matters which are required to be the subject of such a recommendation; and
- 15 (c) include recommendations as to such other matters as the actuary or Tribunal thinks proper.

(4) Any costs incurred in making an investigation or report under this section shall be paid from the Fund.

(37) Sections 28A, 28B—

After section 28, insert :—

20 28A. Orders under different provisions of this Act may **Orders** be contained in the same instrument or in different instru- **generally.** ments.

25 28B. Except where otherwise prescribed, a person is not **Double** eligible for benefits under both Division 2 and Division 3 **benefits.** of Part III in respect of the same period, or for 2 or more benefits under Division 3 of Part III in respect of the same period.

(38) Section 29—

30 After “pension” wherever occurring, insert “or lump sum benefit payment”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—continued.

AMENDMENTS TO THE PRINCIPAL ACT—continued.

(39) (a) Section 32 (2) (a), (b)—

Omit “or subsidies” wherever occurring, insert instead
“, subsidies or lump sum benefit payments”.

(b) Section 32 (2) (g)—

After section 32 (2) (f), insert :—

(g) require the production of information or
records for the purposes of, or in connection
with, any investigation or report under section
27.

(c) Section 32 (5)–(7)—

After section 32 (4), insert :—

(5) Subject to subsections (6) and (7), the power
to make regulations under this Act extends to
authorise the making of regulations whereby the pro-
visions of this Act or of Schedule 2 to the Coal and
Oil Shale Mine Workers (Superannuation) Amend-
ment Act, 1978, or both, are deemed to be amended
in the manner set forth in the regulations.

(6) Regulations shall not be made pursuant to
subsection (5) unless the Minister is satisfied that,
and certifies to the Governor that, the principles con-
tained in the regulations have been agreed to by
representatives of such of the following organisations
as are in existence when the regulations are made,
namely—

(a) The New South Wales Combined Colliery
Proprietors' Association.

(b) The Australian Coal and Oil Shale Em-
ployees' Federation.

(c) The Australian Collieries' Staff Association.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (d) The Amalgamated Metal Workers' and Shipwrights' Union.
- 5 (e) The Electrical Trades Union of Australia.
- (f) The Federated Mining Mechanics' Association of Australasia.
- (g) The Federated Engine Drivers and Firemen's Association of Australasia.
- 10 (7) Regulations made pursuant to subsection (5)—
- (a) may only be made for or with respect to matters for or with respect to which this Act or Schedule 2 to the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, makes provision;
- 15 (b) may be made so as to take effect on and from 26th March, 1978, or a later date, notwithstanding that they are made or published in the Gazette after that date;
- 20 (c) shall have no effect unless published in the Gazette on or before 2nd February, 1979;
- (d) shall, unless sooner revoked or otherwise ceasing to have effect, be deemed to be revoked on 15th April, 1979; and
- 25 (e) shall have no effect in so far as they would, but for this paragraph, have the effect of amending (directly or indirectly) this subsection or subsections (5) or (6) or Part III.
- 30

Coal and Oil Shale Mine Workers (Superannuation) Amendment.SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(40) Schedule 1—

Omit the Schedule to the Principal Act, insert instead :—

5

SCHEDULE 1.

Secs. 10EA,
10F.

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.
10	Item.	Class.	Description of person.	Amount of pension or addition: initial rate. Amount of pension or addition: subsequent rate.
15	(1)	Mine worker (single man's rate).	A person who is in receipt of, or eligible to receive, a pension under section 6, 7 or 8 or who becomes eligible therefor, being a person who is not entitled under section 8A to a pension at the married man's rate.	\$ 70.05 \$ 20.75
20	(2)	Mine worker (married man's rate).	A person who is in receipt of, or eligible to receive, a pension under section 6, 7 or 8 or who becomes eligible therefor, being a person who is entitled under section 8A to a pension at the married man's rate.	100.05 17.85
25	(3)	Widow, etc.	A person who is in receipt of, or eligible to receive, a pension under section 10 (except subsection (1E)), whether by virtue of the operation of section 10A (1) or otherwise, or section 10A (except subsection (5)), or who becomes eligible therefor, not being a person referred to in Item (4).	60.05 10.75
30				
35				

*Coal and Oil Shale Mine Workers (Superannuation) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.
Item.	Class.	Description of person.	Amount of pension or addition: initial rate.	Amount of pension or addition: subsequent rate.
(4)	Child, etc.	A person— (a) who is in receipt of, or eligible to receive, an addition under section 9 (1) (b) or (d) or (2), (3), (4) or (6), or who becomes eligible therefor; or (b) who is in receipt of, or eligible to receive, a pension equal to an addition referred to in paragraph (a) by virtue of section 10 (1) or (1f) or who becomes eligible therefor.	\$ 10.00	\$ 10.00

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 2.

Sec. 6.

SAVINGS AND TRANSITIONAL PROVISIONS.

(1) The Minister, on the recommendation of the Superannuation Tribunal, shall, by an order published in the Gazette as soon as practicable 5 after the date of assent to this Act, specify the weekly rate of wage payable for the classification of loaderman in an industrial award applying to the coal mining industry in New South Wales.

(2) An order under item (1) shall be deemed to have been made under section 2 (5) of the Principal Act, as amended by this Act, for the purposes 10 of the definition of "Reference Rate" in section 2 (1) of that Act, and shall take effect or be deemed to have taken effect (as the case may require) on and from 26th March, 1978.

(3) Where an addition to a pension was payable, immediately before the commencement of this item, under section 9 (5) or (5A) of the Principal 15 Act as in force before that commencement, the addition shall be deemed to have been awarded by the Superannuation Tribunal under section 9 (5) or (5A) (as the case may be) of that Act, as amended by this Act, unless the addition was revoked by the Tribunal with effect from that commencement.

(4) Any amounts paid before 26th March, 1978, under section 19 (4) of 20 the Principal Act in respect of the year commencing on 1st July, 1977, shall be deemed to have been paid under section 19 (4) of the Principal Act, as amended by this Act.

(5) Nothing in this Act takes away the right to a pension under the 25 Principal Act of a person who was in receipt of or eligible for the pension immediately before 26th March, 1978, but such a person shall be entitled thereto to in accordance with and at the rates prescribed by the Principal Act, as amended by this Act.

(6) Without affecting the generality of Division 2 of Part II of the 30 Principal Act, as amended by this Act, where, but for this Act, a person in receipt of or eligible for an addition under section 9 (1) (a) or (c) of the Principal Act immediately before 26th March, 1978, would be entitled to the addition for any period commencing on 26th March, 1978, he is entitled instead to a pension at the married man's rate, as referred to 35 in the Principal Act, as amended by this Act, in respect of that period.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 2—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(7) Notwithstanding the repeal by this Act of the provisions of section 9 (1) (a) and (c), (1A) and (1B) of the Principal Act, those provisions
5 apply to and in respect of—

(a) the period commencing on 1st January, 1978, and ending on 25th March, 1978; and

(b) any previous period,

as if this Act had not been enacted, but as if the period referred to in
10 paragraph (a) were a prescribed period within the meaning of section 9 (1A) of the Principal Act.

(8) Nothing in the Interpretation Act, 1897, requires an actuarial examination or report to be made under section 27 of the Principal Act after the repeal of that section by this Act.

15 (9) Section 10F of the Principal Act, as amended by this Act, shall, but only if the Minister so approves by instrument in writing, apply to and in respect of a variation of a kind referred to in that section and made before 26th March, 1978.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

COAL AND OIL SHALE MINE WORKERS (SUPERANNUATION) AMENDMENT BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, substantially in accordance with an agreement entered into between representatives of colliery proprietors and the unions and associations representing employees in the coal industry.

The principal amendments vary the rates at which pensions are payable and introduce lump sum benefit payments.

The Bill—

- (a) provides for the revised scheme to commence on 26th March, 1978 (clause 2);
- (b) enables regulations to be made extending the compulsory retiring age of mine workers of prescribed classes from 60 to 65, but so that such a worker may retire or be retired at any time between those ages (Schedule 1 (8));
- (c) provides for the continuance of pensions in payment at 26th March, 1978, but at different rates (Schedule 2 (5), (6));
- (d) provides that pension will not be payable to a person ceasing to be employed on or after 26th March, 1978, unless he is not eligible for a lump sum benefit under the revised scheme (Schedule 1 (10));
- (e) sets up a system of pensions payable at 2 rates (Schedule 1 (18)) :—

Class of person.	Initial rate.	Subsequent rate.
Mine worker (except a man with dependent wife or de facto wife).	35% of Reference Rate (i.e. the weekly rate of wage payable to a loaderman).	Initial rate reduced by amount of relevant Commonwealth pension (whether or not in payment).
Mine worker with dependent wife or de facto wife.	50% of Reference Rate ..	
Widow	30% of Reference Rate ..	Unchanged.
Child	5% of Reference Rate ..	

(f) postpones payment of pension at the "subsequent rate" (above) until—

- (i) 23rd September, 1978;
- (ii) in the case of a person in receipt of a section 7 or 8 incapacity pension—he reaches the age of 60 or becomes eligible for a Commonwealth pension (whichever is the earlier); or

- (iii) in the case of a person in receipt of a T.&P.I. pension—he reaches the age of 65,
whichever is the later (Schedule 1 (18));
- (g) authorises the Superannuation Tribunal to suspend payment of part of a pension to avoid prejudicing other benefits (Schedule 1 (21));
- (h) establishes a system of lump sum benefits payable on retirement, death or disablement (Schedule 1 (26));
- (i) provides that a lump sum benefit on retirement is payable to a mine worker if—
 - (i) every part of the period of 10 years immediately before his retirement was a period when he was employed as a mine worker; and
 - (ii) he has been engaged as a mine worker for at least 10 years (Schedule 1 (25)—proposed section 14A (1));
- (j) provides that a lump sum benefit on retirement is payable at the rate of \$100 (or that amount as varied from time to time) for each calendar month of employment as a mine worker (Schedule 1 (26)—proposed sections 14A, 14B);
- (k) provides that lump sum benefits on the death of a mine worker before retirement are payable as follows :—
 - (i) for a widow—half the benefit payable to a contributor retiring with 40 years' service as a mine worker;
 - (ii) for each dependent child, if there are not more than 3—one-third of the amount of a widow's benefit (or double that amount if there is no widow);
 - (iii) for each dependent child, if there are more than 3—an equal share of the amount of a widow's benefit (or double that amount if there is no widow); and
 - (iv) for other dependants, but only if there are fewer than 3 dependent children—various proportions of the amount of a widow's benefit,
 to a maximum of twice the widow's benefit (Schedule 1 (25)—proposed section 14D);
- (l) provides that a lump sum benefit on disablement is payable to a mine worker incapacitated by injury or illness that results in his being permanently unable to continue in employment as a mine worker (Schedule 1 (26)—proposed section 14E);
- (m) provides that the lump sum benefit on disablement is payable at the rate that would (disregarding the 10 year qualification periods) have been payable had the mine worker continued in employment as a mine worker until normal retirement, but reduced if the incapacity occurred during his first 10 years of service and the incapacity was not caused in his employment (Schedule 1 (26)—proposed section 14E (2));

- (n) enables a person who became eligible for a retirement or incapacity pension between 7th November, 1977, and 26th March, 1978, to exchange his pension for a lump sum benefit, reduced by the amount of pension actually received (Schedule 1 (26)—proposed sections 14C and 14F);
 - (o) authorises the refund of contributions where a person ceases to be employed as a mine worker after 12 months of service and without a benefit being payable (Schedule 1 (33));
 - (p) provides for different types of contributions, as follows :—
 - (i) ordinary contributions, payable by employers as to three-quarters and employees as to one-quarter, at the rate, initially, of 10% of the Reference Rate;
 - (ii) special short term contributions by employers, at the rate, initially, of 5.5% of the Reference Rate; and
 - (iii) Government contributions, being the reducing contributions presently required to be paid, the last of which is payable for the year 1979–80 (Schedule 1 (28));
 - (q) requires the actuarial investigation of the Superannuation Fund and the Subsidy Fund (Schedule 1 (36));
 - (r) enables regulations to be made, in accordance with principles approved or to be approved by the parties to the agreement referred to above, whereby the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, will be deemed to be amended in the manner set forth in the regulations, but so that any such regulations may only be made before 2nd February, 1979, and (unless sooner revoked) expire on 15th April, 1979—the intention being to enable the revised scheme to operate as agreed by the parties pending submission of further legislation to Parliament (Schedule 1 (39)); and
 - (s) makes other provisions of a minor, consequential or ancillary nature.
-

**COAL AND OIL SHALE MINE WORKERS
(SUPERANNUATION) AMENDMENT BILL, 1978**

No. , 1978.

A BILL FOR

An Act to amend the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, with respect to the entitlement of mine workers and other persons to benefits under the Act, and in other respects.

[Mr HILLS—7 March, 1978.]

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

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

- 5 **1.** This Act may be cited as the “Coal and Oil Shale Mine Short title.
Workers (Superannuation) Amendment Act, 1978”.

- 2. (1)** This section, section 1 and Schedule 2 (1) and (2) shall commence on the date of assent to this Act. **Commence-
ment.**

- (2) Except as provided in subsection (1), this Act shall
10 commence on 26th March, 1978.

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

- 4.** This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

- 15 SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

- 5.** The Principal Act is amended in the manner set forth in Schedule 1.

6. Schedule 2 has effect.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Long title—

Omit “pensions”, insert instead “benefits”.

5 (2) (a) Section 1 (2)—

Omit the matter relating to Part II, insert instead :—

PART II.—COMPULSORY RETIREMENT, AND
BENEFITS—ss. 5–14G.

10 DIVISION 1.—*Compulsory Retirement*—ss. 5,
5A.

DIVISION 2.—*Pension Benefits*—ss. 5B–14.

DIVISION 3.—*Lump Sum Benefits*—ss. 14A–14H.

(b) Section 1 (2)—

15 From the matter relating to Part IVB, omit “19K”,
insert instead “19M”.

(c) Section 1 (2)—

After “SCHEDULE”, insert “1”.

(3) (a) Section 2 (1), definition of “Authorised period”—

20 Before the definition of “Conciliation and Arbitration
Act”, insert :—

25 “Authorised period”, in relation to a person, means
a period declared by the Tribunal under
section 3A to be, with respect to that person,
an authorised period for the purpose of this
Act.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 2 (1), definition of "Reference Rate"—

After the definition of "Prescribed", insert :—

5 "Reference Rate", as at any particular time, means
 such rate as the Minister declares in an order
 under subsection (5) in force as at that time
 to be the specified rate for the purposes of
 this definition.

10 (c) Section 2 (5), (6)—

At the end of section 2, insert :—

15 (5) Where there is a variation in the weekly rate
 of wage prescribed for the classification of loaderman
 in an industrial award applying to the coal mining
 industry in New South Wales, the Minister, on the
 recommendation of the Tribunal—

 (a) shall, in and by an order published in the
 Gazette as soon as practicable after the
 variation is made—

20 (i) subject to subparagraph (ii)—
 specify that rate as so varied and
 declare it to be the specified rate
 for the purposes of the definition of
25 "Reference Rate" in subsection (1);
 or

 (ii) where there are 2 or more such
 rates so prescribed—specify one of
 those rates as so varied and declare
 it to be the specified rate for the
30 purposes of that definition; and

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—continued.

AMENDMENTS TO THE PRINCIPAL ACT—continued.

- 5 (b) shall, in the order, specify the date as from which the order takes effect, being the date as from which the specified rate became or becomes payable as wages to loadermen or any class of loadermen,

10 and any previous order made under this subsection shall not be in force in respect of any period commencing on or after the date so specified.

(6) A reference in this Act to a pension—

- (a) at the single man's rate is a reference to a pension payable at a rate specified in Schedule 1 (1); or
15 (b) at the married man's rate is a reference to a pension payable at a rate specified in Schedule 1 (2).

(4) Section 2E (11)—

After section 2 (10), insert :—

- 20 (11) No permits issued under this section shall be in force in respect of any period after 25th March, 1978.

(5) Section 3A—

After section 3, insert :—

- 3A. (1) Where the Tribunal is satisfied that—
25 (a) a mine worker has not been engaged in the coal or oil shale mining industries for a period after 25th March, 1978, because his engagement in the industries has been terminated by reason of retrenchment or cavil out or act of God (including fire or flood) or by reason of his ill health;
30

Authorised periods.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) he did not become eligible for a lump sum benefit payment under this Act by virtue of that termination; and

5

(c) either—

(i) he became engaged in the industries at the earliest reasonable opportunity after that termination; or

10

(ii) no such opportunity arose before the date of retirement,

the Tribunal may declare that period to be, with respect to that mine worker, an authorised period for the purposes of this Act.

15

(2) The Tribunal may refuse to make a declaration under subsection (1) if for any reason the Tribunal thinks it proper to do so or if—

(a) the mine worker, as soon as reasonably practicable after the termination of his engagement in the coal or oil shale mining industries, did not notify the Tribunal of that termination; and

20

(b) he did not satisfy the Tribunal, as required from time to time by the Tribunal, that he has taken reasonable steps to secure further employment in the industries.

25

(3) A declaration may be made under subsection (1) subject to such terms and conditions as the Tribunal thinks proper and, if any such term or condition is not complied with, the Tribunal may revoke the declaration either wholly or with respect to any period.

30

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (4) Where a period is, with respect to a mine worker, an authorised period, he shall, for the purposes of this Act (Division 3 of Part II excepted), be deemed to have been during that period—

(a) engaged in the coal or oil shale mining industries;
and

10 (b) engaged in work in or about a coal or oil shale mine.

(5) For the purposes of this section, an apprentice whose employment as a mine worker is terminated on completion of his apprenticeship shall be deemed to have been retrenched.

15 (6) (a) Section 4 (1) (a)—

Omit “pensions”, insert instead “benefits”.

(b) Section 4 (2) (c)—

Omit “pension awarded”, insert instead “benefit payable”.

20 (c) Section 4 (2) (e)—

Omit “pension”, insert instead “benefit”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) Part II, headings—

Omit the headings, insert instead :—

5

PART II.

COMPULSORY RETIREMENT, AND BENEFITS.

DIVISION 1.—*Compulsory Retirement.*

(8) Section 5A—

After section 5, insert :—

10

5A. Where, but for this section, the retiring age of a mine worker would be the age of sixty years, his retiring age shall be the age of sixty-five years, if he is a mine worker of a class prescribed for the purposes of this section :

Extension of
compulsory
retiring
age.

15

Provided that any mine worker to whom this section applies may retire or be retired at any time after he attains the age of sixty years and before he attains the age of sixty-five years :

20

Provided further that the provisions of this Act, in their application to and in respect of such a mine worker, shall be deemed to be modified to the following extent, that is to say—sections 5 and 6 shall have and take effect as if the age of sixty-five years or, where he retires or is retired before the age of sixty-five years, the age at which he retires or is retired were substituted for the age of sixty years referred to therein, and references in this Act to the “date of retirement” shall be construed accordingly.

25

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(9) Part II, Division 2, heading—

After section 5A, insert :—

5 DIVISION 2.—*Pension Benefits.*

(10) Section 5B—

Before section 6, insert :—

10 5B. Notwithstanding anything in this Act, where, but ^{Application} for this section, a person would be entitled to a pension ^{of this} under this Act, he shall not be eligible for it unless— ^{Division.}

(a) in the case of a pension under section 6—

(i) he became eligible for the pension before
26th March, 1978; or

15 (ii) he is entitled to no benefit under section
14A;

(b) in the case of a pension under section 7—he is
entitled to no benefit under section 14E and his
incapacity referred to in section 7 arose before
26th March, 1978;

20 (c) in the case of a pension under section 8—

(i) the date of retirement of the person is
before 26th March, 1978; or

25 (ii) he is entitled to no benefit under section
14E and the Tribunal is of the opinion
that the pension should be awarded to
him on account of an incapacity which
arose before 26th March, 1978; or

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(d) in the case of a pension under section 10 or
10A —

5 (i) the death of the person in consequence of
which the pension is payable occurred
before 26th March, 1978; or

10 (ii) the death of the pensioner in consequence
of which the pension is payable occurred
on or after 26th March, 1978.

(11) (a) Section 6B (1)—

Omit “this section”, insert instead “section 6A”.

(b) Section 6B (2), (3)—

Omit the subsections.

15 (c) Section 6B (5)—

Omit the subsection.

(12) Section 6C (2) (c)—

20 Omit “a permit” where firstly occurring, insert instead “if
his employment was so terminated before 26th March, 1978
—a permit”.

(13) Section 8 (1)—

After “Part” where firstly occurring, insert “(other than
section 5B)”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(14) Section 8A—

After section 8, insert :—

- 5 8A. (1) A person who is in receipt of, or eligible to receive, a pension under section 6, 7 or 8 is entitled to receive that pension at the married man's rate—
- Entitle-
ment to
mine
worker's
pension at
the married
man's rate.
- (a) if he is a married man; or
- 10 (b) if he is not so entitled by virtue of paragraph (a),
and if one female is dependent on his earnings,
and if she—
- (i) is an adult and is caring for any child or
step-child of the mine worker under the
age of 16 years; or
- 15 (ii) is a member of the mine worker's family
and is over the age of 16 years,
but only until her death or marriage or until she
ceases to be such a dependant.
- 20 (2) For the purposes of this section, a person is
dependent on a mine worker during any period only if the
Tribunal is satisfied that the person was totally or mainly
dependent for financial support on the mine worker during
that period.

(15) (a) Section 9 (1)—

25 Omit "section 6B,".

(b) Section 9 (1) (a)—

Omit the paragraph.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 9 (1) (b)—

5 Omit “who is or becomes totally dependent on his earnings”.

(d) Section 9 (1) (c)—

Omit the paragraph.

(e) Section 9 (1A), (1B)—

Omit the subsections.

10 (f) Section 9 (5)—

Omit “section 6B.”.

(g) Section 9 (5)—

15 After “section 8,” insert “and whose pension is payable to him at the married man’s rate specified in Column 5 of Schedule 1 (2).”.

(h) Section 9 (5)—

20 Omit “, where the wife is in receipt of or entitled to receive age or invalid pension under the Social Services Act, in lieu of the amount referred to in paragraph (a) of subsection (1).”.

(i) Section 9 (5)—

25 Omit “plus an amount per week equal to the amount (if any) by which the amount per week payable as an addition to a pension pursuant to paragraph (a) of subsection (1) exceeds the maximum rate per week applicable in the circumstances and fixed by or in accordance with the Social Services Act for age or invalid pension”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(j) Section 9 (5A)—

Omit “section 6B,”.

5 (k) Section 9 (5A)—

Omit “who is not eligible for an addition to his pension pursuant to paragraph (a) or (c) of subsection (1) or pursuant to subsection (5)”, insert instead “whose pension is payable to him at the single man’s rate specified in Column 5 of Schedule 1 (1)”.

10

(l) Section 9 (6)—

Omit “section 6B,”.

(16) (a) Section 10 (1) (a)—

Omit “section 6B,”.

15 (b) Section 10 (1)—

Omit “an addition to his pension under paragraph (c) of subsection (1) of section 9”, insert instead “his pension at the married man’s rate”.

(17) (a) Section 10A (1) (b) (i)—

20 Omit “section 6B,”.

(b) Section 10A (1)—

After “section 9” where secondly occurring, insert “of this Act as in force at any time before 26th March, 1978,”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 10A (1A)—

After section 10A (1), insert :—

5 (1A) For the purposes of section 8A, where the
Tribunal is satisfied that at the date upon which a
mine worker is awarded a pension under this Act any
female was recognised as his wife although not legally
10 married to him, she shall, if the Tribunal so approves,
be deemed to be his wife.

(d) Section 10A (6)—

After section 10A (5), insert :—

15 (6) For the purposes of this Division and notwith-
standing anything contained therein, the Tribunal
shall, as far as practicable, treat a couple, whether
married or not, in such a way as, in the opinion of
the Tribunal, is consistent with the way they are
treated for the purposes of the Social Services Act or
any other prescribed law of the Commonwealth.

20 (18) Section 10EA—

Omit the section, insert instead :—

10EA. (1) For the purposes of any provision of this Act in which there is a reference to the appropriate amount per week payable as a pension or addition to a pension, the appropriate amount per week payable to or in respect of a person who is described in Column 3 of Schedule 1 shall—

25 Appropriate
amounts of
pensions
and
additions
thereto.

30 (a) in the case of a person who is in receipt of, or eligible to receive, the pension or addition referred to in any such description on 26th March, 1978—be, as from that date; or

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (b) in the case of a person who becomes eligible
therefor after that date—be, as from the date on
which he becomes so eligible,

as follows :—

- (c) until—
- 10 (i) except in the case of a person referred to
in subparagraph (ii) or (iii)—the day
immediately preceding the first mine
workers' pension pay period occurring
after the expiration of the period of 5
years commencing on the date on which
the pension concerned became payable;
- 15 (ii) in the case of a person who is in receipt
of a pension under section 7 or 8 and
who has not at the first mine workers'
pension pay period occurring after the
20 expiration of the period of 5 years
referred to in subparagraph (i) attained
the age of 60 years—the day immediately
preceding the first mine workers' pension
pay period occurring after the day on
which he attains that age; or
- 25 (iii) in the case of a person who is in receipt
of a pension at the Special Rate of
Pension referred to in the Second
Schedule to the Repatriation Act 1920
of the Parliament of the Commonwealth
30 as amended by subsequent Acts of that
Parliament, or of any other prescribed
class of pension under a law of the
Commonwealth, and who has not

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 attained the age of 65 years—the day immediately preceding the first mine workers' pension pay period after the day on which he attains that age,

the amount specified in Column 4 of Schedule 1 opposite the relevant description; and

10 (d) thereafter, the rate specified in Column 5 of that Schedule opposite that description.

(2) For the purposes of determining any period of 5 years referred to in subsection (1) (c), periods before 26th March, 1978, as well as periods after 25th March, 1978, shall be taken into account.

15 (3) Where, but for this subsection, a pension would be payable at 26th March, 1978, to a person at the rate specified in Column 5 of Schedule 1 (1), (2) or (3) and the amount of the pension would be less than the
20 amount that would be payable as a pension (together with any addition under section 9 (1) (a) or (c)) had the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, not been enacted, then subsection (1) (c) shall be construed as if it provided for 23rd
25 September, 1978, to be the day until which the relevant amount specified in Column 4 of Schedule 1 is payable.

(4) Where, but for this subsection, the period of 5 years referred to in subsection (1) (c) applicable to a person expires after 26th March, 1978, but before 24th
30 September, 1978, subsection (1) (c) shall be construed as if it provided for 23rd September, 1978, to be the day until which the relevant amount specified in Column 4 of Schedule 1 is payable.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (5) Notwithstanding subsections (1), (3) and
(4), where, but for this subsection, a pension would be
payable at 23rd September, 1978, to a person referred to
in subsection (1) (c) (ii) at the rate specified in Column
5 of Schedule 1 (1) or (2) and the person was, in the
opinion of the Tribunal, not at that date eligible for a
pension under any law of the Commonwealth, then sub-
10 subsection (1) (c) shall be construed as if it provided for the
day immediately preceding the first mine workers' pension
pay period occurring after—

(a) the day on which he attains the age of 60 years;
or

15 (b) the day as from which, in the opinion of the
Tribunal, he became eligible for a pension under
any law of the Commonwealth,

whichever first occurs, to be the day until which the relevant
amount specified in Column 4 of Schedule 1 is payable.

20 (6) For the purposes of this section, a person in
receipt of, or eligible to receive, a pension under section 6,
7 or 8 for any period before 26th March, 1978, shall—

(a) be deemed to have been in receipt of the pension
at the single man's rate for any part thereof
25 during which he did not receive, or was not
eligible for, an addition under section 9 (1) (a)
or (c) of this Act as in force at any time before
that date; and

(b) be deemed to have been in receipt of the pension
30 at the married man's rate for any part thereof
during which he received, or was eligible for,
such an addition.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) For the purposes of determining any period of 5 years referred to in subsection (1) (c)—

- 5 (a) any period during which a person received a pension at the single man's rate shall be deemed also to be a period during which he received a pension at the married man's rate;
- 10 (b) any period during which a person received a pension at the married man's rate shall be deemed also to be a period during which he received a pension at the single man's rate; and
- 15 (c) any period during which a person received a pension at the married man's rate shall be deemed also to be a period during which his widow, or a female treated under this Act as his wife, received a pension.

(8) Nothing in this section affects anything contained in section 11A.

20 (19) (a) Section 10F (1)–(3)—

Omit the subsections, insert instead :—

25 (1) Where there is a variation in the amount of the Reference Rate, the Minister, on the recommendation of the Tribunal, shall, by order published in the Gazette as soon as practicable after the variation, amend Column 4 of Schedule 1—

- 30 (a) by omitting the reference to the amount in Item (1) and by inserting instead a reference to the amount that equals 35 per cent. of the Reference Rate;
- (b) by omitting the reference to the amount in Item (2) and by inserting instead a reference to the amount that equals 50 per cent. of the Reference Rate;

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (c) by omitting the reference to the amount in
Item (3) and by inserting instead a refer-
ence to the amount that equals 30 per cent.
of the Reference Rate; and
- 10 (d) by omitting the reference to the amount in
Item (4) and by inserting instead a refer-
ence to the amount that equals 5 per cent
of the Reference Rate.
- 15 (2) Where the age pension payable to a single
pensioner under the Social Services Act is varied, or
there is a variation in the amount of the Reference
Rate, the Minister, on the recommendation of the
Tribunal, shall, by order published in the Gazette as
soon as practicable after the variation, amend Column
5 of Schedule 1—
- 20 (a) by omitting the reference to the amount in
Item (1) and by inserting instead a refer-
ence to the amount that equals the amount
specified in Column 4 of the Item, reduced
by the amount of the maximum weekly rate
of age pension payable under the Social
Services Act for a single pensioner;
- 25 (b) by omitting the reference to the amount in
Item (2) and by inserting instead a refer-
ence to the amount that equals the amount
specified in Column 4 of the Item, reduced
by the amount of the maximum weekly rate
30 of the age pension payable under the Social
Services Act for married couple pensioners;
- 35 (c) by omitting the reference to the amount in
Item (3) and by inserting instead a refer-
ence to the amount that equals the amount
specified in Column 4 of the Item, reduced

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 by the amount of the maximum weekly rate of age pension payable under the Social Services Act for a single pensioner; and
- (d) by omitting the reference to the amount in Item (4) and by inserting instead a reference to the amount that equals the amount specified in Column 4 of the Item.

10 (b) Section 10F (4)—

Omit “the Schedule”, insert instead “Schedule 1”.

(c) Section 10F (5)—

After “before”, insert “, on”.

(d) Section 10F (7)—

15 Omit “or 13”.

(e) Section 10F (8), (9)—

After section 10F (7), insert :—

20 (8) Where there is a variation in the amount of the Reference Rate, a reference in subsection (2) to the amount specified in Column 4 of an Item of Schedule 1 is a reference to such amount as is, in accordance with subsection (1), inserted or to be inserted in that Column in consequence of that variation.

25 (9) Notwithstanding anything in this section, any amount to be inserted in Schedule 1 in pursuance of this section may be rounded off in such manner as the Minister, on the recommendation of the Tribunal, thinks proper, but so that the variation authorised by

30 this subsection does not exceed 5 cents.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(20) (a) Section 10G—

5 Omit “Item 1 of the Schedule”, insert instead
“Schedule 1 (1) or (2)”.

(b) Section 10G (a)—

Omit the paragraph, insert instead :—

(a) 26th March, 1978; or

(21) Section 10H—

10 After section 10G, insert :—

15 10H. (1) Notwithstanding anything in this Division, where a person entitled to receive a pension under this Act would, in the opinion of the Tribunal, thereby be prejudicially affected in respect of any benefits otherwise receivable by that person, the amount of the pension payable shall be such lesser amount than that provided for under this Division as the Tribunal from time to time determines.

Suspension of part of pension in certain circumstances.

20 (2) Where the Tribunal reduces, under subsection (1), the amount of a pension, the amount by which the pension is so reduced shall be payable in respect of such periods or at such times by way of lump sum or otherwise as the Tribunal from time to time determines.

(22) Section 11 (1)—

Omit “section 6B,”.

25 (23) Section 11A (1)—

30 Omit “and the addition to a pension payable under paragraph (a) or (c) of subsection (1) of section 9”, insert instead “(together with, in relation to any period before 26th March, 1978, the amount (if any) of the addition to the pension payable under section 9 (1) (a) or (c) of this Act as in force at any time before that date)”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(24) Section 13—

Omit the section.

5 (25) (a) Section 14 (1) (a)—

Omit “the prescribed form”, insert instead “a form approved by the Tribunal”.

(b) Section 14 (1) (b)—

10 Omit “prescribed”, insert instead “approved by the Tribunal”.

(c) Section 14 (1) (c)—

Omit “as prescribed;”, insert instead “by statutory declaration; and”.

(26) Part II, Division 3—

15 Before Part III, insert :—

DIVISION 3.—*Lump Sum Benefits.*

20 14A. (1) A mine worker whose date of retirement is on or after 26th March, 1978, is, on retirement, entitled to a lump sum benefit payment at the rate prescribed by this section—

Lump sum benefit payments to retired mine workers.

(a) if every part of the period of 10 years immediately before the date of retirement was either a period when he was engaged in the coal or oil shale mining industries or an authorised period; and

25

(b) if he has been engaged in the industries for a period of not less than 10 years or for 2 or more periods together amounting to not less than 10 years.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (2) A person entitled to a lump sum benefit under this section is entitled to payment thereof at the rate of the prescribed amount for each completed calendar month of service in the coal or oil shale mining industries.

10 (3) In subsection (2), “the prescribed amount”, in relation to a person entitled to a lump sum benefit payment under this section, means the prescribed amount, referred to in section 14B, as at that person’s date of retirement.

15 (4) The amount of any lump sum benefit payment otherwise payable to any person under this section shall not include payment for any period of engagement in the coal or oil shale mining industries before 21st November, 1941, unless evidence of his engagement in those industries satisfactory to the Tribunal has been furnished to the Tribunal.

20 (5) Where a person is a mine worker by virtue of any extension, by or under section 2A or any following section, of the definition of “Mine worker” in section 2 (1), the amount of any lump sum benefit payment otherwise payable to that person under this section shall not include payment for any period of engagement in the coal or oil shale mining industries before he became liable to and did commence to contribute to the Fund.

25

(6) The amount of any lump sum benefit payment otherwise payable to any person under this section shall not include payment for any period of engagement in the coal or oil shale mining industries in respect of which—

30 (a) a pension or addition thereto is or was payable under this Act to or in respect of him or consequent upon his death; or

(b) a lump sum benefit payment has already been made under this Act to or in respect of him.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT—continued.**

5 (7) The amount of any lump sum benefit payment otherwise payable to any person under this section shall not include payment for—

(a) any period of engagement in the coal or oil shale mining industries in respect of which a refund of his contributions has been made under this Act; or

10 (b) any period before that referred to in paragraph (a).

14B. (1) For the purposes of section 14A, the prescribed amount is, subject to the following provisions of this section, \$100. Prescribed amount for purposes of section 14A.

15 (2) Where a variation of the Reference Rate takes effect under section 2 (5) on or after 26th March, 1978, but before 26th March, 1979, and that variation was not made after 26th March, 1979, the Minister, on the recommendation of the Tribunal, shall, by an order published in
20 the Gazette as soon as practicable after the variation—

(a) vary the prescribed amount in line with and by the same percentage as the Reference Rate was varied; and

25 (b) specify the date as from which the variation takes effect, being the date the variation of the Reference Rate takes effect.

(3) After 26th March, 1979, the Minister, on the recommendation of the Tribunal (made by it after taking into consideration the recommendation of the actuary

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 made in connection therewith and contained in a report furnished under section 27), may, by an order published in the Gazette—

(a) vary the prescribed amount; and

(b) specify the date as from which the variation takes effect.

10 (4) A date specified in an order published under subsection (2) or (3) may be a date that is before, on or after the date of publication of the order in the Gazette, and, in the case of an order published under subsection (3), before, on or after 26th March, 1979.

15 (5) A variation shall not be made under subsection (3) that would result in the prescribed amount being greater than it would be if it were varied in line with and by the same percentage as variations in the Reference Rate.

20 (6) Where, but for this subsection, the prescribed amount would include a fraction of a cent, that fraction shall, if less than half a cent, be disregarded, or shall, if half a cent or more, be treated as 1 cent.

25 14c. (1) Where a person whose date of retirement was on or after 7th November, 1977, but before 26th March, 1978, is in receipt of or eligible for a pension under section 6, he is, on application made to the Tribunal before 26th May, 1978, entitled to the lump sum benefit payment to retired mine workers: special provisions. which he would have been entitled under section 14A—

30 (a) had the amendments made by the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, been in force at the date of retirement; and

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (b) had the reference in section 14A (1) to 26th March, 1978, been a reference to the date of retirement,

but reduced by the amount of any pension or additions thereto paid to or in respect of him, or consequent upon his death, since the date of retirement.

10 (2) For the purposes of subsection (1), section 14A (6) (a) does not apply to any pension or addition paid to or in respect of the person referred to in subsection (1), or consequent upon his death, since the date of retirement.

15 (3) Upon payment of a lump sum benefit pursuant to an application made by a person under this section, no pension or addition thereto is thereafter payable to or in respect of him or consequent upon his death.

(4) The Tribunal—

20 (a) may refrain from approving an application under this section during the period of 139 days after the date of retirement of the applicant, although satisfied that the application is such as may otherwise be approved; but

(b) shall not, in any case, approve such an application before 26th May, 1978.

25 (5) If a person dies after making an application under this section, but before payment of the lump sum benefit, the benefit shall, when the application is approved, be paid to his personal representatives.

30 (6) An application under this section may be withdrawn at any time before it is approved.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

14D. (1) In this section—

Lump sum
benefit
payment
on death
of mine
worker.

5

“child”, in relation to a mine worker referred to in subsection (2), means his child or step-child under the age of 18 years;

10

“prescribed dependent amount”, in relation to a mine worker referred to in subsection (3), means the amount that equals 240 times the amount that is the prescribed amount (as referred to in section 14B) as at the date of his death;

“relative” means brother, sister, step-brother, step-sister, grandmother, grandfather, grandson or granddaughter.

15

(2) Where a mine worker dies on or after 26th March, 1978, while engaged in the coal or oil shale mining industries or during an authorised period, and a lump sum benefit has not been paid or is not payable under any other section of this Division to or in respect of the mine worker or consequent upon his death—

20

(a) his widow is entitled to a lump sum benefit payment of the prescribed dependent amount;

25

(b) if a benefit is payable under paragraph (a)—each of his dependent children is entitled to a lump sum benefit payment as follows :—

30

(i) where there are not more than 3 dependent children—the lump sum benefit for each such child is an amount equal to one-third of the prescribed dependent amount; or

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (ii) where there are more than 3 dependent children—the lump sum benefit for each such child is an amount equal to the prescribed dependent amount divided by the number of such dependent children;
- 10 (c) if a benefit is not payable under paragraph (a)—each of his dependent children is entitled to a lump sum benefit payment as follows :—
- 15 (i) where there are not more than 3 dependent children—the lump sum benefit for each such child is an amount equal to two-thirds of the prescribed dependent amount; or
- 20 (ii) where there are more than 3 dependent children—the lump sum benefit for each such child is an amount equal to twice the prescribed dependent amount divided by the number of such dependent children; and
- 25 (d) if there are fewer than 3 dependent children—
- (i) each of his dependent parents is entitled to a lump sum benefit payment of three-quarters of the prescribed dependent amount;
- 30 (ii) each of his dependent relatives is entitled to a lump sum benefit payment of one-half of the prescribed dependent amount; and
- 35 (iii) each of his other dependants is entitled to a lump sum benefit payment of one-quarter of the prescribed dependent amount, unless entitled to a benefit under any other provision of this subsection.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—continued.

AMENDMENTS TO THE PRINCIPAL ACT—continued.

5 (3) For the purposes of this section, a person is dependent on a mine worker referred to in subsection (2), only if the Tribunal is satisfied that the person was totally or mainly dependent for financial support on the mine worker at the date of the mine worker's death or, in the case of a child of the mine worker, that the child had not attained the age of 16 years at that date.

10 (4) Where the wife of a mine worker referred to in subsection (2) dies—

(a) at the same moment as he dies or in circumstances rendering it uncertain which of them survived the other; or

15 (b) within 48 hours before he dies,
she shall, for the purposes of this section, be deemed to have been alive at the time of his death.

20 (5) For the purposes of this section, where there is no wife or widow of a mine worker referred to in subsection (2), a woman who was recognised as his wife although not legally married to him shall, if the Tribunal so approves, be deemed to be his wife or widow.

25 (6) The lump sum benefit to which a child is entitled under this section is payable to one of the child's parents or guardians for the child's support and education or to the child as soon as practicable after his attaining the age of 18 years.

30 (7) The maximum total amount payable under this section consequent upon the death of a mine worker shall not exceed double the prescribed dependent amount, and where, but for this subsection, that amount would be exceeded, the benefits payable under subsection (2) (d) shall, to the necessary extent, be reduced proportionately or, if necessary, not be paid.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

14E. (1) Where a mine worker—

(a) proves to the satisfaction of the Tribunal—

Lump sum
benefit
payment
for
disabled
mine
workers.

5 (i) that he has been incapacitated by injury during a period when he was engaged in the coal or oil shale mining industries;

10 (ii) that by reason of his incapacity he is unable to continue his engagement in those industries and that the date of his disability was on or after 26th March, 1978; and

15 (iii) that the incapacity is likely to be permanent and is of a major and effectively disabling kind;

(b) has not been awarded a pension under section 6, and is not entitled to a lump sum benefit payment under section 14A, in respect of the incapacity; and

20 (c) has submitted himself to any examination required under subsection (3),

he is entitled to a lump sum benefit payment of the amount determined under subsection (2).

25 (2) The amount of a lump sum benefit payable under this section is—

(a) where the Tribunal is satisfied that the incapacity was caused by injury as a mine worker—an amount equal to the amount that would have been payable to him under section 14A—

30 (i) had he continued being engaged in the coal or oil shale mining industries until the date of retirement;

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

*SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT—continued.*

- (ii) had section 14A (1) (a) and (b) not been enacted; and
- 5 (iii) had the reference in section 14A (3) to his date of retirement been a reference to the date of his disability; or
- (b) in any other case—an amount equal to a percentage of the amount referred to in paragraph (a), being 10 per cent. of that amount, together with
10 a further 10 per cent. for each completed year of his engagement in the coal or oil shale mining industries before the date of his disability, to a maximum of 100 per cent.
- (3) The Tribunal may require an applicant for
15 payment of a lump sum benefit under this section to submit himself to examination by a panel of 3 medical practitioners nominated by the Tribunal and the Tribunal shall, in making any such nomination, have regard to any representations made in regard thereto by the applicant.
20
- (4) A person is not entitled to a lump sum benefit payment where the incapacity was caused by his act or default intended by him to produce that incapacity.
- (5) For the purposes of this section, the date on
25 which a person's incapacity arises and the date of his disability shall be deemed to be such date or dates as may be determined by the Tribunal, and the Tribunal shall, in making a determination under this subsection, have regard to all the circumstances of the case, including—
- 30 (a) his medical and employment history; and
- (b) the date on which he ceased to be able to be effectively employed as a mine worker.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) In this section, a reference to—

(a) injury includes a reference to illness; and

5 (b) the date of a mine worker's disability is a reference to the date on which he becomes unable to continue his engagement in the coal or oil shale mining industries by reason of incapacity referred to in this section.

10 14F. (1) Where a person, who is in receipt of or eligible for a pension under section 7 or 8 by reason of incapacity, became eligible for the pension on or after 7th November, 1977, but before 26th March, 1978, he is, on application made to the Tribunal before 26th May, 1978, entitled to the lump sum benefit payment for disabled mine workers: special provisions.
15 been entitled under section 14E—

(a) had the amendments made by the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, been in force at the date he became eligible for the pension; and
20

(b) had the words "has not been awarded a pension under section 6, and" been omitted from section 14E (1) (b),

25 but reduced by the amount of any pension or additions thereto paid for or in respect of him, or consequent upon his death, since he became eligible for the pension.

(2) For the purposes of subsection (1), section 14A (6) (a) does not apply to any pension or addition paid to or in respect of the person referred to in subsection (1), or consequent upon his death, since the date he became eligible for the pension.
30

(3) Upon payment of a lump sum benefit pursuant to an application made by a person under this section, no pension or addition thereto is thereafter payable to or in respect of him or consequent upon his death.
35

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) The Tribunal—

- 5 (a) may refrain from approving an application under this section during the period of 139 days after the date the applicant became eligible for the pension, although satisfied that the application is such as may otherwise be approved; but
- 10 (b) shall not, in any case, approve such an application before 26th May, 1978.

(5) If a person dies after making an application under this section, but before payment of the lump sum benefit, the benefit shall, when the application is approved, be paid to his personal representatives.

- 15 (6) An application under this section may be withdrawn at any time before it is approved.

- 20 14G. For the purposes of this Division, a mine worker shall not be deemed to be “engaged in the coal or oil shale mining industries” by reason of the operation of section 2 (2) (b) or (c). Certain periods not be counted.

- 25 14H. (1) Every application for a lump sum benefit payment— Applications for lump sum benefit payment.
- (a) shall be in or to the effect of a form approved by the Tribunal;
- (b) shall contain such particulars as may be approved by the Tribunal;
- (c) shall be verified by statutory declaration; and
- (d) shall be lodged with or forwarded to the Registrar.

- 30 (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.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (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.

(4) The Tribunal shall thereupon consider the application and report.

10 (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.

15 (7) The power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926, shall extend to the making of rules for regulating the procedure and practice of the Commission in dealing with applications referred to it under this section and for prescribing all matters which are necessary or
20 convenient to be prescribed by rules in relation to the exercise of the jurisdiction conferred upon the Commission by this section.

25 (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.

30 (9) Where the Tribunal allows the application it shall, in its determination, specify the number of completed calendar months of employment as a mine worker in respect of which the lump sum benefit payment is payable under this Act.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (10) Where the Tribunal refers the application to the Workers' Compensation Commission, the Commission shall, in its determination, specify the number of completed calendar months of employment as a mine worker in respect of which the lump sum benefit payment is payable under this Act.

10 (11) Any determination of the Commission under this section 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.

(27) Section 18 (2) (b)—

Omit the paragraph, insert instead :—

15 (b) There shall be payable out of the Fund all pensions, additions to pensions, lump sum benefit payments and refunds of contributions authorised to be paid under this Act.

(28) (a) Section 19 (1)–(4)—

20 Omit the subsections, insert instead :—

(1) Contributions shall be payable to the Fund in respect of each mine worker at—

(a) the rate per week of 10 per cent. of the Reference Rate; or

25 (b) such other rate per week as may from time to time be fixed by the Minister, by order published in the Gazette, after taking into consideration a recommendation of the Tribunal made by it after—

30 (i) taking into consideration a report of the actuary furnished under section 27; and

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (ii) consultation between it and representatives of such organisations of mine workers and owners as the Minister considers appropriate.

(2) Contributions under subsection (1) shall be payable in respect of mine workers—

(a) as to one-quarter thereof—by the mine workers; and

(b) as to three-quarters thereof—by the owners.

(2A) For the purpose of providing any additional funds necessary to make provision for or towards the payment of benefits under this Act for such period after 26th March, 1978, as the Minister, on the recommendation of the Tribunal, thinks fit, special contributions shall, in addition to the contributions payable by the owners under the foregoing provisions of this section, be payable to the Fund by the owners in respect of each mine worker—

(a) at the rate of 5.5 per cent. of the Reference Rate; or

(b) at such lower rate as may from time to time be fixed by the Minister, by order published in the Gazette, on the recommendation of the Tribunal made by it after—

(i) taking into consideration a report of the actuary furnished under section 27; and

(ii) consultation between it and representatives of such organisations of mine workers and owners as the Minister considers appropriate.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (3) The Minister, on the recommendation of the Tribunal, shall, in an order made under subsection (1) or (2A), specify the date as from which the order shall take effect.

10 (3A) In an order made under subsection (1) or (2A), different dates may be specified for the purposes of subsection (3) in respect of different classes of mine workers, and the dates so specified may be dates before, on or after the date of publication of the order in the Gazette.

15 (4) There shall be payable to the Fund by the Treasurer, out of money provided by Parliament, the following amounts :—

(a) for the year commencing on 1st July, 1977
—\$48,000;

(b) for the year commencing on 1st July, 1978
—\$32,000; and

20 (c) for the year commencing on 1st July, 1979
—\$16,000.

(b) Section 19 (4A)—

Omit the subsection.

(c) Section 19 (5)—

25 Omit “Without prejudice to the generality of the foregoing provisions of this subsection regulations may prescribe the basis or bases upon which the contribution of individual owners may be assessed.”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(d) Section 19 (6)—

5 Omit “Without prejudice to the generality of the foregoing provisions of this subsection the regulations may prescribe the basis or bases upon which the contributions of individual mine workers are to be assessed, and”, insert instead “The regulations”.

(e) Section 19 (6)—

10 Omit “such contributions”, insert instead “such moneys”.

(f) Section 19 (8)—

Omit the subsection.

(29) Section 19A (3)—

15 Omit “, 6B”.

(30) (a) Section 19B (1) (b)—

Omit “, 6B”.

(b) Section 19B (2) (a)—

20 Omit “sections 11A and 13”, insert instead “section 11A”.

(c) Section 19B (2)—

Omit “, 6B”.

(d) Section 19B (6)—

At the end of section 19B, insert :—

25 (6) Subsections (1) (b) and (2) (a) do not apply to or in respect of a mine worker entitled to a lump sum benefit payment under Division 3 of Part II.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(31) Section 19J (1)—

5 After “terminated” where firstly occurring, insert “before
26th March, 1978,”.

(32) Section 19K—

Omit “this Part” wherever occurring, insert instead “section
19J”.

(33) Sections 19L, 19M—

10 After section 19K, insert :—

19L. (1) Subject to this Part, where a mine worker’s engagement in the coal or oil shale mining industries has
been terminated on or after 26th March, 1978, and the
Tribunal is satisfied—

Refund of
contributions
where mine
worker
ceases to be
employed on
or after
26.3.1978.

15 (a) that—

(i) where his engagement was so terminated
otherwise than by reason of his death and
he has not died thereafter—he is not
eligible for a pension or entitled to a lump
sum benefit payment under this Act;

20 (ii) where his engagement was so terminated
by reason of his death—no person is
eligible for a pension or entitled to a lump
sum benefit payment under this Act
consequent upon his death; or

25 (iii) where his engagement was so terminated
otherwise than by reason of his death and
he has died thereafter—he was not, after
that termination of his engagement,
eligible for a pension or entitled to a lump
30

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 sum benefit payment under this Act, and
no person is eligible for a pension under
this Act consequent upon his death; and

(b) that he has, being liable to do so, paid contribu-
tions to the Fund for a period of not less than one
year immediately before that termination of his
engagement,

10 the Tribunal shall, on application made by the mine worker
or his personal representatives, refund to him or them an
amount equal to the total amount of the mine worker's
contributions to the Fund in respect of the period or periods
15 during which he was engaged in those industries, together
with interest thereon under subsection (6).

(2) Where a mine worker's engagement in the coal
or oil shale mining industries has been terminated otherwise
than by reason of his death, no refund shall be made under
this section consequent upon that termination of his
20 engagement unless—

(a) he or, if the Tribunal is satisfied that he, being
alive, is unable for any reason to do so, some
other person on his behalf, makes application
therefor within the period of one year after that
25 termination; or

(b) if he dies within that period without any applica-
tion having been made therefor under paragraph
(a)—his personal representatives make applica-
tion therefor within the period of one year after
30 his death.

(3) Where a mine worker's engagement in the
coal or oil shale mining industries has been terminated by
reason of his death, no refund shall be made under this

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 section consequent upon that termination of his engagement unless his personal representatives make application therefor within the period of one year after his death.

10 (4) Any period during which a person was engaged in the coal or oil shale mining industries shall be disregarded for the purposes of subsection (1) if a pension or lump sum benefit payment is payable under this Act after the termination of his engagement in those industries by reference to that period.

15 (5) Where a refund of a mine worker's contributions paid to the Fund in respect of a period or periods is made under this section, the mine worker shall, for the purposes of Division 2 of Part II, be deemed to have been engaged, during that period or those periods, otherwise than in those industries.

20 (6) The interest payable on the amount of refunded contributions is the total of the interest payable, on the balance of the contributions as at 30th June in each year, at the rate per annum payable as at that date by the Commonwealth Savings Bank in respect of corresponding amounts in a savings account, but so that no interest on interest is payable.

25 19M. The reference in section 19L (1) to the total amount of a mine worker's contributions to the Fund is a reference to those contributions as reduced by such of the following amounts as may be applicable :—

Reduction
of amount
of refund
under
section
19L.

30 (a) an amount equal to so much of his contributions to the Fund as were previously refunded to or in respect of him under this Part (excluding any of his contributions that have been repaid to the Fund, as referred to in section 10AA);

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (b) an amount equal to any contributions paid by him to the Fund in respect of any period before 25th May, 1971.

(34) Section 22—

After “pension”, insert “or a lump sum benefit payment”.

(35) (a) Section 25 (1)—

- 10 After “pension” where secondly occurring, insert “or any lump sum benefit payment or any part thereof”.

(b) Section 25 (1)—

After “pension” where fourthly occurring, insert “or lump sum benefit payment”.

(36) Section 27—

- 15 Omit the section, insert instead :—

27. (1) The Minister shall, from time to time, appoint an actuary for the purpose of making investigations and reports on the state, sufficiency, assets and liabilities of the Fund and the Subsidy Fund established under Part IVA. Actuarial investigation and report.

- 20 (2) The Tribunal shall arrange for such an investigation and report to be made as at 26th March, 1979, and thereafter at intervals of not more than 3 years.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) Any such report shall—

- 5 (a) contain an analysis of the assets and liabilities of the Fund and Subsidy Fund, and the sufficiency of the Fund having regard to the current and likely future level of contributions, pensions, additions to pensions, lump sum benefit payments and any other factors which the actuary or Tribunal considers relevant;
- 10 (b) include recommendations as to any matters which are required to be the subject of such a recommendation; and
- 15 (c) include recommendations as to such other matters as the actuary or Tribunal thinks proper.

(4) Any costs incurred in making an investigation or report under this section shall be paid from the Fund.

(37) Sections 28A, 28B—

After section 28, insert :—

20 28A. Orders under different provisions of this Act may be contained in the same instrument or in different instruments. Orders generally.

25 28B. Except where otherwise prescribed, a person is not eligible for benefits under both Division 2 and Division 3 of Part III in respect of the same period, or for 2 or more benefits under Division 3 of Part III in respect of the same period. Double benefits.

(38) Section 29—

30 After “pension” wherever occurring, insert “or lump sum benefit payment”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(39) (a) Section 32 (2) (a), (b)—

5 Omit “or subsidies” wherever occurring, insert instead
“, subsidies or lump sum benefit payments”.

(b) Section 32 (2) (g)—

After section 32 (2) (f), insert :—

10 (g) require the production of information or
records for the purposes of, or in connection
with, any investigation or report under section
27.

(c) Section 32 (5)–(7)—

After section 32 (4), insert :—

15 (5) Subject to subsections (6) and (7), the power
to make regulations under this Act extends to
authorise the making of regulations whereby the pro-
visions of this Act or of Schedule 2 to the Coal and
Oil Shale Mine Workers (Superannuation) Amend-
ment Act, 1978, or both, are deemed to be amended
20 in the manner set forth in the regulations.

(6) Regulations shall not be made pursuant to
subsection (5) unless the Minister is satisfied that,
and certifies to the Governor that, the principles con-
tained in the regulations have been agreed to by
25 representatives of such of the following organisations
as are in existence when the regulations are made,
namely—

- 30 (a) The New South Wales Combined Colliery
Proprietors' Association.
- (b) The Australian Coal and Oil Shale Em-
ployees' Federation.
- (c) The Australian Collieries' Staff Association.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (d) The Amalgamated Metal Workers' and Shipwrights' Union.
- 5 (e) The Electrical Trades Union of Australia.
- (f) The Federated Mining Mechanics' Association of Australasia.
- (g) The Federated Engine Drivers and Firemen's Association of Australasia.
- 10 (7) Regulations made pursuant to subsection (5)—
- (a) may only be made for or with respect to matters for or with respect to which this Act or Schedule 2 to the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, makes provision;
- 15 (b) may be made so as to take effect on and from 26th March, 1978, or a later date, notwithstanding that they are made or
- 20 published in the Gazette after that date;
- (c) shall have no effect unless published in the Gazette on or before 2nd February, 1979;
- (d) shall, unless sooner revoked or otherwise ceasing to have effect, be deemed to be
- 25 revoked on 15th April, 1979; and
- (e) shall have no effect in so far as they would, but for this paragraph, have the effect of amending (directly or indirectly) this subsection or subsections (5) or (6) or
- 30 Part III.

*Coal and Oil Shale Mine Workers (Superannuation) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(40) Schedule 1—

Omit the Schedule to the Principal Act, insert instead :—

5

SCHEDULE 1.

Secs. 10EA,
10F.

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.
Item.	Class.	Description of person.	Amount of pension or addition: initial rate.	Amount of pension or addition: subsequent rate.
15	(1) Mine worker (single man's rate).	A person who is in receipt of, or eligible to receive, a pension under section 6, 7 or 8 or who becomes eligible therefor, being a person who is not entitled under section 8A to a pension at the married man's rate.	\$ 70.05	\$ 20.75
20	(2) Mine worker (married man's rate).	A person who is in receipt of, or eligible to receive, a pension under section 6, 7 or 8 or who becomes eligible therefor, being a person who is entitled under section 8A to a pension at the married man's rate.	100.05	17.85
25	(3) Widow, etc.	A person who is in receipt of, or eligible to receive, a pension under section 10 (except subsection (1E)), whether by virtue of the operation of section 10A (1) or otherwise, or section 10A (except subsection (5)), or who becomes eligible therefor, not being a person referred to in Item (4).	60.05	10.75
30				
35				

*Coal and Oil Shale Mine Workers (Superannuation) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.
5 Item.	Class.	Description of person.	Amount of pension or addition: initial rate.	Amount of pension or addition: subsequent rate.
10				
15	(4)	Child, etc.	\$ 10.00	\$ 10.00
20		A person— (a) who is in receipt of, or eligible to receive, an addition under section 9 (1) (b) or (d) or (2), (3), (4) or (6), or who becomes eligible therefor; or (b) who is in receipt of, or eligible to receive, a pension equal to an addition referred to in paragraph (a) by virtue of section 10 (1) or (1F) or who becomes eligible therefor.		

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 2.

Sec. 6.

SAVINGS AND TRANSITIONAL PROVISIONS.

(1) The Minister, on the recommendation of the Superannuation Tribunal, shall, by an order published in the Gazette as soon as practicable after the date of assent to this Act, specify the weekly rate of wage payable for the classification of loaderman in an industrial award applying to the coal mining industry in New South Wales.

(2) An order under item (1) shall be deemed to have been made under section 2 (5) of the Principal Act, as amended by this Act, for the purposes of the definition of "Reference Rate" in section 2 (1) of that Act, and shall take effect or be deemed to have taken effect (as the case may require) on and from 26th March, 1978.

(3) Where an addition to a pension was payable, immediately before the commencement of this item, under section 9 (5) or (5A) of the Principal Act as in force before that commencement, the addition shall be deemed to have been awarded by the Superannuation Tribunal under section 9 (5) or (5A) (as the case may be) of that Act, as amended by this Act, unless the addition was revoked by the Tribunal with effect from that commencement.

(4) Any amounts paid before 26th March, 1978, under section 19 (4) of the Principal Act in respect of the year commencing on 1st July, 1977, shall be deemed to have been paid under section 19 (4) of the Principal Act, as amended by this Act.

(5) Nothing in this Act takes away the right to a pension under the Principal Act of a person who was in receipt of or eligible for the pension immediately before 26th March, 1978, but such a person shall be entitled thereto to in accordance with and at the rates prescribed by the Principal Act, as amended by this Act.

(6) Without affecting the generality of Division 2 of Part II of the Principal Act, as amended by this Act, where, but for this Act, a person in receipt of or eligible for an addition under section 9 (1) (a) or (c) of the Principal Act immediately before 26th March, 1978, would be entitled to the addition for any period commencing on 26th March, 1978, he is entitled instead to a pension at the married man's rate, as referred to in the Principal Act, as amended by this Act, in respect of that period.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 2—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(7) Notwithstanding the repeal by this Act of the provisions of section 9 (1) (a) and (c), (1A) and (1B) of the Principal Act, those provisions
5 apply to and in respect of—

(a) the period commencing on 1st January, 1978, and ending on 25th March, 1978; and

(b) any previous period,

as if this Act had not been enacted, but as if the period referred to in
10 paragraph (a) were a prescribed period within the meaning of section 9 (1A) of the Principal Act.

(8) Nothing in the Interpretation Act, 1897, requires an actuarial examination or report to be made under section 27 of the Principal Act after the repeal of that section by this Act.

15 (9) Section 10F of the Principal Act, as amended by this Act, shall, but only if the Minister so approves by instrument in writing, apply to and in respect of a variation of a kind referred to in that section and made before 26th March, 1978.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

[56c]

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**COAL AND OIL SHALE MINE WORKERS (SUPER-
ANNUATION) AMENDMENT ACT, 1978, No. 28**

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 28, 1978.

An Act to amend the Coal and Oil Shale Mine Workers (Super-
annuation) Act, 1941, with respect to the entitlement of mine
workers and other persons to benefits under the Act, and in
other respects. [Assented to, 22nd March, 1978.]

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

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

Short title. **1.** This Act may be cited as the "Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978".

Commence- **2.** (1) This section, section 1 and Schedule 2 (1) and (2)
ment. shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on 26th March, 1978.

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

Schedules. **4.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

Amend- **5.** The Principal Act is amended in the manner set forth in
ment of Schedule 1.
Act No. 45,
1941.

Savings and **6.** Schedule 2 has effect.
transitional
provisions.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Long title—

Omit “pensions”, insert instead “benefits”.

(2) (a) Section 1 (2)—

Omit the matter relating to Part II, insert instead :—

PART II.—COMPULSORY RETIREMENT, AND
BENEFITS—ss. 5–14G.

DIVISION 1.—*Compulsory Retirement*—ss. 5,
5A.

DIVISION 2.—*Pension Benefits*—ss. 5B–14.

DIVISION 3.—*Lump Sum Benefits*—ss. 14A–14H.

(b) Section 1 (2)—

From the matter relating to Part IVB, omit “19K”,
insert instead “19M”.

(c) Section 1 (2)—

After “SCHEDULE”, insert “1”.

(3) (a) Section 2 (1), definition of “Authorised period”—

Before the definition of “Conciliation and Arbitration
Act”, insert :—

“Authorised period”, in relation to a person, means
a period declared by the Tribunal under
section 3A to be, with respect to that person,
an authorised period for the purpose of this
Act.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 2 (1), definition of "Reference Rate"—

After the definition of "Prescribed", insert :—

"Reference Rate", as at any particular time, means such rate as the Minister declares in an order under subsection (5) in force as at that time to be the specified rate for the purposes of this definition.

(c) Section 2 (5), (6)—

At the end of section 2, insert :—

(5) Where there is a variation in the weekly rate of wage prescribed for the classification of loaderman in an industrial award applying to the coal mining industry in New South Wales, the Minister, on the recommendation of the Tribunal—

(a) shall, in and by an order published in the Gazette as soon as practicable after the variation is made—

(i) subject to subparagraph (ii)—
specify that rate as so varied and
declare it to be the specified rate
for the purposes of the definition of
"Reference Rate" in subsection (1);
or

(ii) where there are 2 or more such
rates so prescribed—specify one of
those rates as so varied and declare
it to be the specified rate for the
purposes of that definition; and

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) shall, in the order, specify the date as from which the order takes effect, being the date as from which the specified rate became or becomes payable as wages to loadermen or any class of loadermen,

and any previous order made under this subsection shall not be in force in respect of any period commencing on or after the date so specified.

- (6) A reference in this Act to a pension—

- (a) at the single man's rate is a reference to a pension payable at a rate specified in Schedule 1 (1); or
- (b) at the married man's rate is a reference to a pension payable at a rate specified in Schedule 1 (2).

- (4) Section 2E (11)—

After section 2 (10), insert :—

(11) No permits issued under this section shall be in force in respect of any period after 25th March, 1978.

- (5) Section 3A—

After section 3, insert :—

- 3A. (1) Where the Tribunal is satisfied that—

- (a) a mine worker has not been engaged in the coal or oil shale mining industries for a period after 25th March, 1978, because his engagement in the industries has been terminated by reason of retrenchment or cavil out or act of God (including fire or flood) or by reason of his ill health;

Authorised
periods.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

*SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT—continued.*

(b) he did not become eligible for a lump sum benefit payment under this Act by virtue of that termination; and

(c) either—

(i) he became engaged in the industries at the earliest reasonable opportunity after that termination; or

(ii) no such opportunity arose before the date of retirement,

the Tribunal may declare that period to be, with respect to that mine worker, an authorised period for the purposes of this Act.

(2) The Tribunal may refuse to make a declaration under subsection (1) if for any reason the Tribunal thinks it proper to do so or if—

(a) the mine worker, as soon as reasonably practicable after the termination of his engagement in the coal or oil shale mining industries, did not notify the Tribunal of that termination; and

(b) he did not satisfy the Tribunal, as required from time to time by the Tribunal, that he has taken reasonable steps to secure further employment in the industries.

(3) A declaration may be made under subsection (1) subject to such terms and conditions as the Tribunal thinks proper and, if any such term or condition is not complied with, the Tribunal may revoke the declaration either wholly or with respect to any period.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) Where a period is, with respect to a mine worker, an authorised period, he shall, for the purposes of this Act (Division 3 of Part II excepted), be deemed to have been during that period—

(a) engaged in the coal or oil shale mining industries;
and

(b) engaged in work in or about a coal or oil shale mine.

(5) For the purposes of this section, an apprentice whose employment as a mine worker is terminated on completion of his apprenticeship shall be deemed to have been retrenched.

(6) (a) Section 4 (1) (a)—

Omit “pensions”, insert instead “benefits”.

(b) Section 4 (2) (c)—

Omit “pension awarded”, insert instead “benefit payable”.

(c) Section 4 (2) (e)—

Omit “pension”, insert instead “benefit”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) Part II, headings—

Omit the headings, insert instead :—

PART II.

COMPULSORY RETIREMENT, AND BENEFITS.

DIVISION 1.—*Compulsory Retirement.*

(8) Section 5A—

After section 5, insert :—

Extension of
compulsory
retiring
age.

5A. Where, but for this section, the retiring age of a mine worker would be the age of sixty years, his retiring age shall be the age of sixty-five years, if he is a mine worker of a class prescribed for the purposes of this section :

Provided that any mine worker to whom this section applies may retire or be retired at any time after he attains the age of sixty years and before he attains the age of sixty-five years :

Provided further that the provisions of this Act, in their application to and in respect of such a mine worker, shall be deemed to be modified to the following extent, that is to say—sections 5 and 6 shall have and take effect as if the age of sixty-five years or, where he retires or is retired before the age of sixty-five years, the age at which he retires or is retired were substituted for the age of sixty years referred to therein, and references in this Act to the “date of retirement” shall be construed accordingly.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(9) Part II, Division 2, heading—

After section 5A, insert :—

DIVISION 2.—*Pension Benefits.*

(10) Section 5B—

Before section 6, insert :—

5B. Notwithstanding anything in this Act, where, but ^{Application} for this section, a person would be entitled to a pension ^{of this} under this Act, he shall not be eligible for it unless— ^{Division.}

(a) in the case of a pension under section 6—

(i) he became eligible for the pension before 26th March, 1978; or

(ii) he is entitled to no benefit under section 14A;

(b) in the case of a pension under section 7—he is entitled to no benefit under section 14E and his incapacity referred to in section 7 arose before 26th March, 1978;

(c) in the case of a pension under section 8—

(i) the date of retirement of the person is before 26th March, 1978; or

(ii) he is entitled to no benefit under section 14E and the Tribunal is of the opinion that the pension should be awarded to him on account of an incapacity which arose before 26th March, 1978; or

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(d) in the case of a pension under section 10 or 10A —

(i) the death of the person in consequence of which the pension is payable occurred before 26th March, 1978; or

(ii) the death of the pensioner in consequence of which the pension is payable occurred on or after 26th March, 1978.

(11) (a) Section 6B (1)—

Omit “this section”, insert instead “section 6A”.

(b) Section 6B (2), (3)—

Omit the subsections.

(c) Section 6B (5)—

Omit the subsection.

(12) Section 6C (2) (c)—

Omit “a permit” where firstly occurring, insert instead “if his employment was so terminated before 26th March, 1978 —a permit”.

(13) Section 8 (1)—

After “Part” where firstly occurring, insert “(other than section 5B)”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(14) Section 8A—

After section 8, insert :—

8A. (1) A person who is in receipt of, or eligible to receive, a pension under section 6, 7 or 8 is entitled to receive that pension at the married man's rate—

Entitled to mine worker's pension at the married man's rate.

(a) if he is a married man; or

(b) if he is not so entitled by virtue of paragraph (a), and if one female is dependent on his earnings, and if she—

(i) is an adult and is caring for any child or step-child of the mine worker under the age of 16 years; or

(ii) is a member of the mine worker's family and is over the age of 16 years,

but only until her death or marriage or until she ceases to be such a dependant.

(2) For the purposes of this section, a person is dependent on a mine worker during any period only if the Tribunal is satisfied that the person was totally or mainly dependent for financial support on the mine worker during that period.

(15) (a) Section 9 (1)—

Omit "section 6B,".

(b) Section 9 (1) (a)—

Omit the paragraph.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 9 (1) (b)—

Omit “who is or becomes totally dependent on his earnings”.

(d) Section 9 (1) (c)—

Omit the paragraph.

(e) Section 9 (1A), (1B)—

Omit the subsections.

(f) Section 9 (5)—

Omit “section 6B.”.

(g) Section 9 (5)—

After “section 8,” insert “and whose pension is payable to him at the married man’s rate specified in Column 5 of Schedule 1 (2).”.

(h) Section 9 (5)—

Omit “, where the wife is in receipt of or entitled to receive age or invalid pension under the Social Services Act, in lieu of the amount referred to in paragraph (a) of subsection (1).”.

(i) Section 9 (5)—

Omit “plus an amount per week equal to the amount (if any) by which the amount per week payable as an addition to a pension pursuant to paragraph (a) of subsection (1) exceeds the maximum rate per week applicable in the circumstances and fixed by or in accordance with the Social Services Act for age or invalid pension”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(j) Section 9 (5A)—

Omit “section 6B,”.

(k) Section 9 (5A)—

Omit “who is not eligible for an addition to his pension pursuant to paragraph (a) or (c) of subsection (1) or pursuant to subsection (5)”, insert instead “whose pension is payable to him at the single man’s rate specified in Column 5 of Schedule 1 (1)”.

(l) Section 9 (6)—

Omit “section 6B,”.

(16) (a) Section 10 (1) (a)—

Omit “section 6B,”.

(b) Section 10 (1)—

Omit “an addition to his pension under paragraph (c) of subsection (1) of section 9”, insert instead “his pension at the married man’s rate”.

(17) (a) Section 10A (1) (b) (i)—

Omit “section 6B,”.

(b) Section 10A (1)—

After “section 9” where secondly occurring, insert “of this Act as in force at any time before 26th March, 1978,”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 10A (1A)—

After section 10A (1), insert :—

(1A) For the purposes of section 8A, where the Tribunal is satisfied that at the date upon which a mine worker is awarded a pension under this Act any female was recognised as his wife although not legally married to him, she shall, if the Tribunal so approves, be deemed to be his wife.

(d) Section 10A (6)—

After section 10A (5), insert :—

(6) For the purposes of this Division and notwithstanding anything contained therein, the Tribunal shall, as far as practicable, treat a couple, whether married or not, in such a way as, in the opinion of the Tribunal, is consistent with the way they are treated for the purposes of the Social Services Act or any other prescribed law of the Commonwealth.

(18) Section 10EA—

Omit the section, insert instead :—

Appropriate
amounts of
pensions
and
additions
thereto.

10EA. (1) For the purposes of any provision of this Act in which there is a reference to the appropriate amount per week payable as a pension or addition to a pension, the appropriate amount per week payable to or in respect of a person who is described in Column 3 of Schedule 1 shall—

- (a) in the case of a person who is in receipt of, or eligible to receive, the pension or addition referred to in any such description on 26th March, 1978—be, as from that date; or

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) in the case of a person who becomes eligible therefor after that date—be, as from the date on which he becomes so eligible,

as follows :—

(c) until—

- (i) except in the case of a person referred to in subparagraph (ii) or (iii)—the day immediately preceding the first mine workers' pension pay period occurring after the expiration of the period of 5 years commencing on the date on which the pension concerned became payable;
- (ii) in the case of a person who is in receipt of a pension under section 7 or 8 and who has not at the first mine workers' pension pay period occurring after the expiration of the period of 5 years referred to in subparagraph (i) attained the age of 60 years—the day immediately preceding the first mine workers' pension pay period occurring after the day on which he attains that age; or
- (iii) in the case of a person who is in receipt of a pension at the Special Rate of Pension referred to in the Second Schedule to the Repatriation Act 1920 of the Parliament of the Commonwealth as amended by subsequent Acts of that Parliament, or of any other prescribed class of pension under a law of the Commonwealth, and who has not

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

attained the age of 65 years—the day immediately preceding the first mine workers' pension pay period after the day on which he attains that age,

the amount specified in Column 4 of Schedule 1 opposite the relevant description; and

- (d) thereafter, the rate specified in Column 5 of that Schedule opposite that description.

(2) For the purposes of determining any period of 5 years referred to in subsection (1) (c), periods before 26th March, 1978, as well as periods after 25th March, 1978, shall be taken into account.

(3) Where, but for this subsection, a pension would be payable at 26th March, 1978, to a person at the rate specified in Column 5 of Schedule 1 (1), (2) or (3) and the amount of the pension would be less than the amount that would be payable as a pension (together with any addition under section 9 (1) (a) or (c)) had the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, not been enacted, then subsection (1) (c) shall be construed as if it provided for 23rd September, 1978, to be the day until which the relevant amount specified in Column 4 of Schedule 1 is payable.

(4) Where, but for this subsection, the period of 5 years referred to in subsection (1) (c) applicable to a person expires after 26th March, 1978, but before 24th September, 1978, subsection (1) (c) shall be construed as if it provided for 23rd September, 1978, to be the day until which the relevant amount specified in Column 4 of Schedule 1 is payable.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(5) Notwithstanding subsections (1), (3) and (4), where, but for this subsection, a pension would be payable at 23rd September, 1978, to a person referred to in subsection (1) (c) (ii) at the rate specified in Column 5 of Schedule 1 (1) or (2) and the person was, in the opinion of the Tribunal, not at that date eligible for a pension under any law of the Commonwealth, then subsection (1) (c) shall, if the Tribunal in its discretion so directs, be construed as if it provided for the day immediately preceding the first mine workers' pension pay period occurring after—

- (a) the day on which he attains the age of 65 years;
or
- (b) the day as from which, in the opinion of the Tribunal, he became eligible for a pension under any law of the Commonwealth,

whichever first occurs, to be the day until which the relevant amount specified in Column 4 of Schedule 1 is payable.

(6) For the purposes of this section, a person in receipt of, or eligible to receive, a pension under section 6, 7 or 8 for any period before 26th March, 1978, shall—

- (a) be deemed to have been in receipt of the pension at the single man's rate for any part thereof during which he did not receive, or was not eligible for, an addition under section 9 (1) (a) or (c) of this Act as in force at any time before that date; and
- (b) be deemed to have been in receipt of the pension at the married man's rate for any part thereof during which he received, or was eligible for, such an addition.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) For the purposes of determining any period of 5 years referred to in subsection (1) (c)—

- (a) any period during which a person received a pension at the single man's rate shall be deemed also to be a period during which he received a pension at the married man's rate;
- (b) any period during which a person received a pension at the married man's rate shall be deemed also to be a period during which he received a pension at the single man's rate; and
- (c) any period during which a person received a pension at the married man's rate shall be deemed also to be a period during which his widow, or a female treated under this Act as his wife, received a pension.

(8) Nothing in this section affects anything contained in section 11A.

19) (a) Section 10F (1)–(3)—

Omit the subsections, insert instead :—

(1) Where there is a variation in the amount of the Reference Rate, the Minister, on the recommendation of the Tribunal, shall, by order published in the Gazette as soon as practicable after the variation, amend Column 4 of Schedule 1—

- (a) by omitting the reference to the amount in Item (1) and by inserting instead a reference to the amount that equals 35 per cent. of the Reference Rate;
- (b) by omitting the reference to the amount in Item (2) and by inserting instead a reference to the amount that equals 50 per cent. of the Reference Rate;

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (c) by omitting the reference to the amount in Item (3) and by inserting instead a reference to the amount that equals 30 per cent. of the Reference Rate; and
- (d) by omitting the reference to the amount in Item (4) and by inserting instead a reference to the amount that equals 5 per cent of the Reference Rate.

(2) Where the age pension payable to a single pensioner under the Social Services Act is varied, or there is a variation in the amount of the Reference Rate, the Minister, on the recommendation of the Tribunal, shall, by order published in the Gazette as soon as practicable after the variation, amend Column 5 of Schedule 1—

- (a) by omitting the reference to the amount in Item (1) and by inserting instead a reference to the amount that equals the amount specified in Column 4 of the Item, reduced by the amount of the maximum weekly rate of age pension payable under the Social Services Act for a single pensioner;
- (b) by omitting the reference to the amount in Item (2) and by inserting instead a reference to the amount that equals the amount specified in Column 4 of the Item, reduced by the amount of the maximum weekly rate of the age pension payable under the Social Services Act for married couple pensioners;
- (c) by omitting the reference to the amount in Item (3) and by inserting instead a reference to the amount that equals the amount specified in Column 4 of the Item, reduced

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

by the amount of the maximum weekly rate of age pension payable under the Social Services Act for a single pensioner; and

- (d) by omitting the reference to the amount in Item (4) and by inserting instead a reference to the amount that equals the amount specified in Column 4 of the Item.

- (b) Section 10F (4)—

Omit “the Schedule”, insert instead “Schedule 1”.

- (c) Section 10F (5)—

After “before”, insert “, on”.

- (d) Section 10F (7)—

Omit “or 13”.

- (e) Section 10F (8), (9)—

After section 10F (7), insert :—

(8) Where there is a variation in the amount of the Reference Rate, a reference in subsection (2) to the amount specified in Column 4 of an Item of Schedule 1 is a reference to such amount as is, in accordance with subsection (1), inserted or to be inserted in that Column in consequence of that variation.

(9) Notwithstanding anything in this section, any amount to be inserted in Schedule 1 in pursuance of this section may be rounded off in such manner as the Minister, on the recommendation of the Tribunal, thinks proper, but so that the variation authorised by this subsection does not exceed 5 cents.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(20) (a) Section 10G—

Omit “Item 1 of the Schedule”, insert instead
“Schedule 1 (1) or (2)”.

(b) Section 10G (a)—

Omit the paragraph, insert instead :—

(a) 26th March, 1978; or

(21) Section 10H—

After section 10G, insert :—

10H. (1) Notwithstanding anything in this Division, where a person entitled to receive a pension under this Act would, in the opinion of the Tribunal, thereby be prejudicially affected in respect of any benefits otherwise receivable by that person, the amount of the pension payable shall be such lesser amount than that provided for under this Division as the Tribunal from time to time determines.

Suspension
of part of
pension in
certain
circum-
stances.

(2) Where the Tribunal reduces, under subsection (1), the amount of a pension, the amount by which the pension is so reduced shall be payable in respect of such periods or at such times by way of lump sum or otherwise as the Tribunal from time to time determines.

(22) Section 11 (1)—

Omit “section 6B,”.

(23) Section 11A (1)—

Omit “and the addition to a pension payable under paragraph (a) or (c) of subsection (1) of section 9”, insert instead “(together with, in relation to any period before 26th March, 1978, the amount (if any) of the addition to the pension payable under section 9 (1) (a) or (c) of this Act as in force at any time before that date)”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.SCHEDULE 1—continued.AMENDMENTS TO THE PRINCIPAL ACT—continued.

(24) Section 13 (4)—

After section 13 (3), insert :—

(4) Subject to section 19B, the foregoing provisions of this section have no effect in respect of any period after 25th March, 1978.

(25) (a) Section 14 (1) (a)—

Omit “the prescribed form”, insert instead “a form approved by the Tribunal”.

(b) Section 14 (1) (b)—

Omit “prescribed”, insert instead “approved by the Tribunal”.

(c) Section 14 (1) (c)—

Omit “as prescribed;”, insert instead “by statutory declaration; and”.

(26) Part II, Division 3—

Before Part III, insert :—

DIVISION 3.—*Lump Sum Benefits.*

Lump sum
benefit
payments
to
retired
mine
workers.

14A. (1) A mine worker whose date of retirement is on or after 26th March, 1978, is, on retirement, entitled to a lump sum benefit payment at the rate prescribed by this section—

- (a) if every part of the period of 10 years immediately before the date of retirement was either a period when he was engaged in the coal or oil shale mining industries or an authorised period; and
- (b) if he has been engaged in the industries for a period of not less than 10 years or for 2 or more periods together amounting to not less than 10 years.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) A person entitled to a lump sum benefit under this section is entitled to payment thereof at the rate of the prescribed amount for each completed calendar month of service in the coal or oil shale mining industries.

(3) In subsection (2), “the prescribed amount”, in relation to a person entitled to a lump sum benefit payment under this section, means the prescribed amount, referred to in section 14B, as at that person’s date of retirement.

(4) The amount of any lump sum benefit payment otherwise payable to any person under this section shall not include payment for any period of engagement in the coal or oil shale mining industries before 21st November, 1941, unless evidence of his engagement in those industries satisfactory to the Tribunal has been furnished to the Tribunal.

(5) Where a person is a mine worker by virtue of any extension, by or under section 2A or any following section, of the definition of “Mine worker” in section 2 (1), the amount of any lump sum benefit payment otherwise payable to that person under this section shall not include payment for any period of engagement in the coal or oil shale mining industries before he became liable to and did commence to contribute to the Fund.

(6) The amount of any lump sum benefit payment otherwise payable to any person under this section shall not include payment for any period of engagement in the coal or oil shale mining industries in respect of which—

- (a) a pension or addition thereto is or was payable under this Act to or in respect of him or consequent upon his death; or
- (b) a lump sum benefit payment has already been made under this Act to or in respect of him.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) The amount of any lump sum benefit payment otherwise payable to any person under this section shall not include payment for—

(a) any period of engagement in the coal or oil shale mining industries in respect of which a refund of his contributions has been made under this Act; or

(b) any period before that referred to in paragraph (a).

Prescribed
amount
for
purposes
of section
14A.

14B. (1) For the purposes of section 14A, the prescribed amount is, subject to the following provisions of this section, \$100.

(2) Where a variation of the Reference Rate takes effect under section 2 (5) on or after 26th March, 1978, but before 26th March, 1979, and that variation was not made after 26th March, 1979, the Minister, on the recommendation of the Tribunal, shall, by an order published in the Gazette as soon as practicable after the variation—

(a) vary the prescribed amount in line with and by the same percentage as the Reference Rate was varied; and

(b) specify the date as from which the variation takes effect, being the date the variation of the Reference Rate takes effect.

(3) After 26th March, 1979, the Minister, on the recommendation of the Tribunal (made by it after taking into consideration the recommendation of the actuary

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

made in connection therewith and contained in a report furnished under section 27), may, by an order published in the Gazette—

- (a) vary the prescribed amount; and
- (b) specify the date as from which the variation takes effect.

(4) A date specified in an order published under subsection (2) or (3) may be a date that is before, on or after the date of publication of the order in the Gazette, and, in the case of an order published under subsection (3), before, on or after 26th March, 1979.

(5) A variation shall not be made under subsection (3) that would result in the prescribed amount being greater than it would be if it were varied in line with and by the same percentage as variations in the Reference Rate.

(6) Where, but for this subsection, the prescribed amount would include a fraction of a cent, that fraction shall, if less than half a cent, be disregarded, or shall, if half a cent or more, be treated as 1 cent.

14C. (1) Where a person whose date of retirement was on or after 7th November, 1977, but before 26th March, 1978, is in receipt of or eligible for a pension under section 6, he is, on application made to the Tribunal before 26th May, 1978, entitled to the lump sum benefit payment to retired mine workers: special provisions. which he would have been entitled under section 14A—

- (a) had the amendments made by the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, been in force at the date of retirement; and

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) had the reference in section 14A (1) to 26th March, 1978, been a reference to the date of retirement,

but reduced by the amount of any pension or additions thereto paid to or in respect of him, or consequent upon his death, since the date of retirement.

- (2) For the purposes of subsection (1), section 14A (6) (a) does not apply to any pension or addition paid to or in respect of the person referred to in subsection (1), or consequent upon his death, since the date of retirement.

- (3) Upon payment of a lump sum benefit pursuant to an application made by a person under this section, no pension or addition thereto is thereafter payable to or in respect of him or consequent upon his death.

- (4) The Tribunal—

- (a) may refrain from approving an application under this section during the period of 139 days after the date of retirement of the applicant, although satisfied that the application is such as may otherwise be approved; but
- (b) shall not, in any case, approve such an application before 26th May, 1978.

- (5) If a person dies after making an application under this section, but before payment of the lump sum benefit, the benefit shall, when the application is approved, be paid to his personal representatives.

- (6) An application under this section may be withdrawn at any time before it is approved.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

14D. (1) In this section—

Lump sum
benefit
payment
on death
of mine
worker.

“child”, in relation to a mine worker referred to in subsection (2), means his child or step-child under the age of 18 years;

“prescribed dependent amount”, in relation to a mine worker referred to in subsection (3), means the amount that equals 240 times the amount that is the prescribed amount (as referred to in section 14B) as at the date of his death;

“relative” means brother, sister, step-brother, step-sister, grandmother, grandfather, grandson or granddaughter.

(2) Where a mine worker dies on or after 26th March, 1978, while engaged in the coal or oil shale mining industries or during an authorised period, and a lump sum benefit has not been paid or is not payable under any other section of this Division to or in respect of the mine worker or consequent upon his death—

- (a) his widow is entitled to a lump sum benefit payment of the prescribed dependent amount;
- (b) if a benefit is payable under paragraph (a)—each of his dependent children is entitled to a lump sum benefit payment as follows :—
 - (i) where there are not more than 3 dependent children—the lump sum benefit for each such child is an amount equal to one-third of the prescribed dependent amount; or

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(ii) where there are more than 3 dependent children—the lump sum benefit for each such child is an amount equal to the prescribed dependent amount divided by the number of such dependent children;

(c) if a benefit is not payable under paragraph (a)—each of his dependent children is entitled to a lump sum benefit payment as follows :—

(i) where there are not more than 3 dependent children—the lump sum benefit for each such child is an amount equal to two-thirds of the prescribed dependent amount; or

(ii) where there are more than 3 dependent children—the lump sum benefit for each such child is an amount equal to twice the prescribed dependent amount divided by the number of such dependent children; and

(d) if there are fewer than 3 dependent children—

(i) each of his dependent parents is entitled to a lump sum benefit payment of three-quarters of the prescribed dependent amount;

(ii) each of his dependent relatives is entitled to a lump sum benefit payment of one-half of the prescribed dependent amount; and

(iii) each of his other dependants is entitled to a lump sum benefit payment of one-quarter of the prescribed dependent amount, unless entitled to a benefit under any other provision of this subsection.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) For the purposes of this section, a person is dependent on a mine worker referred to in subsection (2), only if the Tribunal is satisfied that the person was totally or mainly dependent for financial support on the mine worker at the date of the mine worker's death or, in the case of a child of the mine worker, that the child had not attained the age of 16 years at that date.

(4) Where the wife of a mine worker referred to in subsection (2) dies—

(a) at the same moment as he dies or in circumstances rendering it uncertain which of them survived the other; or

(b) within 48 hours before he dies,
she shall, for the purposes of this section, be deemed to have been alive at the time of his death.

(5) For the purposes of this section, where there is no wife or widow of a mine worker referred to in subsection (2), a woman who was recognised as his wife although not legally married to him shall, if the Tribunal so approves, be deemed to be his wife or widow.

(6) The lump sum benefit to which a child is entitled under this section is payable to one of the child's parents or guardians for the child's support and education or to the child as soon as practicable after his attaining the age of 18 years.

(7) The maximum total amount payable under this section consequent upon the death of a mine worker shall not exceed double the prescribed dependent amount, and where, but for this subsection, that amount would be exceeded, the benefits payable under subsection (2) (d) shall, to the necessary extent, be reduced proportionately or, if necessary, not be paid.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

Lump sum
benefit
payment
for
disabled
mine
workers.

14E. (1) Where a mine worker—

(a) proves to the satisfaction of the Tribunal—

- (i) that he has been incapacitated by injury during a period when he was engaged in the coal or oil shale mining industries;
- (ii) that by reason of his incapacity he is unable to continue his engagement in those industries and that the date of his disability was on or after 26th March, 1978; and
- (iii) that the incapacity is likely to be permanent and is of a major and effectively disabling kind;

(b) has not been awarded a pension under section 6, and is not entitled to a lump sum benefit payment under section 14A, in respect of the incapacity; and

(c) has submitted himself to any examination required under subsection (3),

he is entitled to a lump sum benefit payment of the amount determined under subsection (2).

(2) The amount of a lump sum benefit payable under this section is—

- (a) where the Tribunal is satisfied that the incapacity was caused by injury as a mine worker—an amount equal to the amount that would have been payable to him under section 14A—
 - (i) had he continued being engaged in the coal or oil shale mining industries until the date of retirement;

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (ii) had section 14A (1) (a) and (b) not been enacted; and
 - (iii) had the reference in section 14A (3) to his date of retirement been a reference to the date of his disability; or
- (b) in any other case—an amount equal to a percentage of the amount referred to in paragraph (a), being 10 per cent. of that amount, together with a further 10 per cent. for each completed year of his engagement in the coal or oil shale mining industries before the date of his disability, to a maximum of 100 per cent.
- (3) The Tribunal may require an applicant for payment of a lump sum benefit under this section to submit himself to examination by a panel of 3 medical practitioners nominated by the Tribunal and the Tribunal shall, in making any such nomination, have regard to any representations made in regard thereto by the applicant.
- (4) A person is not entitled to a lump sum benefit payment where the incapacity was caused by his act or default intended by him to produce that incapacity.
- (5) For the purposes of this section, the date on which a person's incapacity arises and the date of his disability shall be deemed to be such date or dates as may be determined by the Tribunal, and the Tribunal shall, in making a determination under this subsection, have regard to all the circumstances of the case, including—
- (a) his medical and employment history; and
 - (b) the date on which he ceased to be able to be effectively employed as a mine worker.

*Coal and Oil Shale Mine Workers (Superannuation) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) In this section, a reference to—

- (a) injury includes a reference to illness; and
- (b) the date of a mine worker's disability is a reference to the date on which he becomes unable to continue his engagement in the coal or oil shale mining industries by reason of incapacity referred to in this section.

Lump sum
benefit
payment for
disabled
mine
workers:
special
provisions.

14F. (1) Where a person, who is in receipt of or eligible for a pension under section 7 or 8 by reason of incapacity, became eligible for the pension on or after 7th November, 1977, but before 26th March, 1978, he is, on application made to the Tribunal before 26th May, 1978, entitled to the lump sum benefit payment to which he would have been entitled under section 14E—

- (a) had the amendments made by the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, been in force at the date he became eligible for the pension; and
- (b) had the words “has not been awarded a pension under section 6, and” been omitted from section 14E (1) (b),

but reduced by the amount of any pension or additions thereto paid for or in respect of him, or consequent upon his death, since he became eligible for the pension.

(2) For the purposes of subsection (1), section 14A (6) (a) does not apply to any pension or addition paid to or in respect of the person referred to in subsection (1), or consequent upon his death, since the date he became eligible for the pension.

(3) Upon payment of a lump sum benefit pursuant to an application made by a person under this section, no pension or addition thereto is thereafter payable to or in respect of him or consequent upon his death.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) The Tribunal—

- (a) may refrain from approving an application under this section during the period of 139 days after the date the applicant became eligible for the pension, although satisfied that the application is such as may otherwise be approved; but
- (b) shall not, in any case, approve such an application before 26th May, 1978.

(5) If a person dies after making an application under this section, but before payment of the lump sum benefit, the benefit shall, when the application is approved, be paid to his personal representatives.

(6) An application under this section may be withdrawn at any time before it is approved.

14G. For the purposes of this Division, a mine worker shall not be deemed to be “engaged in the coal or oil shale mining industries” by reason of the operation of section 2 (2) (b) or (c). Certain periods not be counted.

14H. (1) Every application for a lump sum benefit payment— Applications for lump sum benefit payment.

- (a) shall be in or to the effect of a form approved by the Tribunal;
- (b) shall contain such particulars as may be approved by the Tribunal;
- (c) shall be verified by statutory declaration; and
- (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.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(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.

(4) The Tribunal shall thereupon consider the application and report.

(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, shall extend to the making of rules for regulating the procedure and practice of the 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 rules in relation to the exercise of the jurisdiction conferred upon the 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 number of completed calendar months of employment as a mine worker in respect of which the lump sum benefit payment is payable under this Act.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(10) Where the Tribunal refers the application to the Workers' Compensation Commission, the Commission shall, in its determination, specify the number of completed calendar months of employment as a mine worker in respect of which the lump sum benefit payment is payable under this Act.

(11) Any determination of the Commission under this section 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.

(27) Section 18 (2) (b)—

Omit the paragraph, insert instead :—

(b) There shall be payable out of the Fund all pensions, additions to pensions, lump sum benefit payments and refunds of contributions authorised to be paid under this Act.

(28) (a) Section 19 (1)–(4)—

Omit the subsections, insert instead :—

(1) Contributions shall be payable to the Fund in respect of each mine worker at—

(a) the rate per week of 10 per cent. of the Reference Rate; or

(b) such other rate per week as may from time to time be fixed by the Minister, by order published in the Gazette, after taking into consideration a recommendation of the Tribunal made by it after—

(i) taking into consideration a report of the actuary furnished under section 27; and

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

*SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT—continued.*

- (ii) consultation between it and representatives of such organisations of mine workers and owners as the Minister considers appropriate.

(2) Contributions under subsection (1) shall be payable in respect of mine workers—

- (a) as to one-quarter thereof—by the mine workers; and
- (b) as to three-quarters thereof—by the owners.

(2A) For the purpose of providing any additional funds necessary to make provision for or towards the payment of benefits under this Act for such period after 26th March, 1978, as the Minister, on the recommendation of the Tribunal, thinks fit, special contributions shall, in addition to the contributions payable by the owners under the foregoing provisions of this section, be payable to the Fund by the owners in respect of each mine worker—

- (a) at the rate of 5.5 per cent. of the Reference Rate; or
- (b) at such lower rate as may from time to time be fixed by the Minister, by order published in the Gazette, on the recommendation of the Tribunal made by it after—
 - (i) taking into consideration a report of the actuary furnished under section 27; and
 - (ii) consultation between it and representatives of such organisations of mine workers and owners as the Minister considers appropriate.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) The Minister, on the recommendation of the Tribunal, shall, in an order made under subsection (1) or (2A), specify the date as from which the order shall take effect.

(3A) In an order made under subsection (1) or (2A), different dates may be specified for the purposes of subsection (3) in respect of different classes of mine workers, and the dates so specified may be dates before, on or after the date of publication of the order in the Gazette.

(4) There shall be payable to the Fund by the Treasurer, out of money provided by Parliament, the following amounts :—

- (a) for the year commencing on 1st July, 1977
—\$48,000;
- (b) for the year commencing on 1st July, 1978
—\$32,000; and
- (c) for the year commencing on 1st July, 1979
—\$16,000.

(b) Section 19 (4A)—

Omit the subsection.

(c) Section 19 (5)—

Omit “Without prejudice to the generality of the foregoing provisions of this subsection regulations may prescribe the basis or bases upon which the contribution of individual owners may be assessed.”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(d) Section 19 (6)—

Omit “Without prejudice to the generality of the foregoing provisions of this subsection the regulations may prescribe the basis or bases upon which the contributions of individual mine workers are to be assessed, and”, insert instead “The regulations”.

(e) Section 19 (6)—

Omit “such contributions”, insert instead “such moneys”.

(f) Section 19 (8)—

Omit the subsection.

(29) Section 19A (3)—

Omit “, 6B”.

(30) (a) Section 19B (1) (b)—

Omit “, 6B”.

(b) Section 19B (2) (a)—

Omit “sections 11A and 13”, insert instead “section 11A and section 13 (subsection (4) of which shall, for the purposes of this section, be deemed never to have been in force)”.

(c) Section 19B (2)—

Omit “, 6B”.

(d) Section 19B (6)—

At the end of section 19B, insert :—

(6) Subsection (1) (b) does not apply to or in respect of a mine worker entitled to a lump sum benefit payment under Division 3 of Part II.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(31) Section 19J (1)—

After “terminated” where firstly occurring, insert “before 26th March, 1978,”.

(32) Section 19K—

Omit “this Part” wherever occurring, insert instead “section 19J”.

(33) Sections 19L, 19M—

After section 19K, insert :—

19L. (1) Subject to this Part, where a mine worker's engagement in the coal or oil shale mining industries has been terminated on or after 26th March, 1978, and the Tribunal is satisfied—

Refund of contributions where mine worker ceases to be employed on or after 26.3.1978.

(a) that—

- (i) where his engagement was so terminated otherwise than by reason of his death and he has not died thereafter—he is not eligible for a pension or entitled to a lump sum benefit payment under this Act;
- (ii) where his engagement was so terminated by reason of his death—no person is eligible for a pension or entitled to a lump sum benefit payment under this Act consequent upon his death; or
- (iii) where his engagement was so terminated otherwise than by reason of his death and he has died thereafter—he was not, after that termination of his engagement, eligible for a pension or entitled to a lump

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

sum benefit payment under this Act, and no person is eligible for a pension under this Act consequent upon his death; and

- (b) that he has, being liable to do so, paid contributions to the Fund for a period of not less than one year immediately before that termination of his engagement,

the Tribunal shall, on application made by the mine worker or his personal representatives, refund to him or them an amount equal to the total amount of the mine worker's contributions to the Fund in respect of the period or periods during which he was engaged in those industries, together with interest thereon under subsection (6).

(2) Where a mine worker's engagement in the coal or oil shale mining industries has been terminated otherwise than by reason of his death, no refund shall be made under this section consequent upon that termination of his engagement unless—

- (a) he or, if the Tribunal is satisfied that he, being alive, is unable for any reason to do so, some other person on his behalf, makes application therefor within the period of one year after that termination; or
- (b) if he dies within that period without any application having been made therefor under paragraph (a)—his personal representatives make application therefor within the period of one year after his death.

(3) Where a mine worker's engagement in the coal or oil shale mining industries has been terminated by reason of his death, no refund shall be made under this

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

section consequent upon that termination of his engagement unless his personal representatives make application therefor within the period of one year after his death.

(4) Any period during which a person was engaged in the coal or oil shale mining industries shall be disregarded for the purposes of subsection (1) if a pension or lump sum benefit payment is payable under this Act after the termination of his engagement in those industries by reference to that period.

(5) Where a refund of a mine worker's contributions paid to the Fund in respect of a period or periods is made under this section, the mine worker shall, for the purposes of Division 2 of Part II, be deemed to have been engaged, during that period or those periods, otherwise than in those industries.

(6) The interest payable on the amount of refunded contributions is the total of the interest payable, on the balance of the contributions as at 30th June in each year, at the rate per annum payable as at that date by the Commonwealth Savings Bank in respect of corresponding amounts in a savings account, but so that no interest on interest is payable.

19M. The reference in section 19L (1) to the total amount of a mine worker's contributions to the Fund is a reference to those contributions as reduced by such of the following amounts as may be applicable :—

Reduction
of amount
of refund
under
section
19L.

- (a) an amount equal to so much of his contributions to the Fund as were previously refunded to or in respect of him under this Part (excluding any of his contributions that have been repaid to the Fund, as referred to in section 10AA);

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) an amount equal to any contributions paid by him to the Fund in respect of any period before 25th May, 1971.

(34) Section 22—

After “pension”, insert “or a lump sum benefit payment”.

(35) (a) Section 25 (1)—

After “pension” where secondly occurring, insert “or any lump sum benefit payment or any part thereof”.

(b) Section 25 (1)—

After “pension” where fourthly occurring, insert “or lump sum benefit payment”.

(36) Section 27—

Omit the section, insert instead :—

Actuarial
investiga-
tion and
report.

27. (1) The Minister shall, from time to time, appoint an actuary for the purpose of making investigations and reports on the state, sufficiency, assets and liabilities of the Fund and the Subsidy Fund established under Part IVA.

(2) The Tribunal shall arrange for such an investigation and report to be made as at 26th March, 1979, and thereafter at intervals of not more than 3 years.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) Any such report shall—

- (a) contain an analysis of the assets and liabilities of the Fund and Subsidy Fund, and the sufficiency of the Fund having regard to the current and likely future level of contributions, pensions, additions to pensions, lump sum benefit payments and any other factors which the actuary or Tribunal considers relevant;
- (b) include recommendations as to any matters which are required to be the subject of such a recommendation; and
- (c) include recommendations as to such other matters as the actuary or Tribunal thinks proper.

(4) Any costs incurred in making an investigation or report under this section shall be paid from the Fund.

(37) Sections 28A, 28B—

After section 28, insert :—

28A. Orders under different provisions of this Act may be contained in the same instrument or in different instruments. ^{Orders generally.}

28B. Except where otherwise prescribed, a person is not eligible for benefits under both Division 2 and Division 3 of Part III in respect of the same period, or for 2 or more benefits under Division 3 of Part III in respect of the same period. ^{Double benefits.}

(38) Section 29—

After “pension” wherever occurring, insert “or lump sum benefit payment”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(39) (a) Section 32 (2) (a), (b)—

Omit “or subsidies” wherever occurring, insert instead
“, subsidies or lump sum benefit payments”.

(b) Section 32 (2) (g)—

After section 32 (2) (f), insert :—

(g) require the production of information or records for the purposes of, or in connection with, any investigation or report under section 27.

(c) Section 32 (5)–(7)—

After section 32 (4), insert :—

(5) Subject to subsections (6) and (7), the power to make regulations under this Act extends to authorise the making of regulations whereby the provisions of this Act or of Schedule 2 to the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, or both, are deemed to be amended in the manner set forth in the regulations.

(6) Regulations shall not be made pursuant to subsection (5) unless the Minister is satisfied that, and certifies to the Governor that, the principles contained in the regulations have been agreed to by representatives of such of the following organisations as are in existence when the regulations are made, namely—

- (a) The New South Wales Combined Colliery Proprietors' Association.
- (b) The Australian Coal and Oil Shale Employees' Federation.
- (c) The Australian Collieries' Staff Association.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (d) The Amalgamated Metal Workers' and Shipwrights' Union.
- (e) The Electrical Trades Union of Australia.
- (f) The Federated Mining Mechanics' Association of Australasia.
- (g) The Federated Engine Drivers and Firemen's Association of Australasia.

(7) Regulations made pursuant to subsection (5)—

- (a) may only be made for or with respect to matters for or with respect to which this Act or Schedule 2 to the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, makes provision;
- (b) may be made so as to take effect on and from 26th March, 1978, or a later date, notwithstanding that they are made or published in the Gazette after that date;
- (c) shall have no effect unless published in the Gazette on or before 2nd February, 1979;
- (d) shall, unless sooner revoked or otherwise ceasing to have effect, be deemed to be revoked on 15th April, 1979; and
- (e) shall have no effect in so far as they would, but for this paragraph, have the effect of amending (directly or indirectly) this subsection or subsections (5) or (6) or Part III.

*Coal and Oil Shale Mine Workers (Superannuation) Amendment.**SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT—continued.*

(40) Schedule 1—

Omit the Schedule to the Principal Act, insert instead :—

Secs. 10EA,
10F.**SCHEDULE 1.**

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.
Item.	Class.	Description of person.	Amount of pension or addition: initial rate.	Amount of pension or addition: subsequent rate.
(1)	Mine worker (single man's rate).	A person who is in receipt of, or eligible to receive, a pension under section 6, 7 or 8 or who becomes eligible therefor, being a person who is not entitled under section 8A to a pension at the married man's rate.	\$ 70.05	\$ 20.75
(2)	Mine worker (married man's rate).	A person who is in receipt of, or eligible to receive, a pension under section 6, 7 or 8 or who becomes eligible therefor, being a person who is entitled under section 8A to a pension at the married man's rate.	100.05	17.85
(3)	Widow, etc.	A person who is in receipt of, or eligible to receive, a pension under section 10 (except subsection (1E)), whether by virtue of the operation of section 10A (1) or otherwise, or section 10A (except subsection (5)), or who becomes eligible therefor, not being a person referred to in Item (4).	60.05	10.75

*Coal and Oil Shale Mine Workers (Superannuation) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.
Item.	Class.	Description of person.	Amount of pension or addition: initial rate.	Amount of pension or addition: subsequent rate.
(4)	Child, etc.	A person— (a) who is in receipt of, or eligible to receive, an addition under section 9 (1) (b) or (d) or (2), (3), (4) or (6), or who becomes eligible therefor; or (b) who is in receipt of, or eligible to receive, a pension equal to an addition referred to in paragraph (a) by virtue of section 10 (1) or (1F) or who becomes eligible therefor.	\$ 10.00	\$ 10.00

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

Sec. 6.

SCHEDULE 2.

SAVINGS AND TRANSITIONAL PROVISIONS.

(1) The Minister, on the recommendation of the Superannuation Tribunal, shall, by an order published in the Gazette as soon as practicable after the date of assent to this Act, specify the weekly rate of wage payable for the classification of loaderman in an industrial award applying to the coal mining industry in New South Wales.

(2) An order under item (1) shall be deemed to have been made under section 2 (5) of the Principal Act, as amended by this Act, for the purposes of the definition of "Reference Rate" in section 2 (1) of that Act, and shall take effect or be deemed to have taken effect (as the case may require) on and from 26th March, 1978.

(3) Where an addition to a pension was payable, immediately before the commencement of this item, under section 9 (5) or (5A) of the Principal Act as in force before that commencement, the addition shall be deemed to have been awarded by the Superannuation Tribunal under section 9 (5) or (5A) (as the case may be) of that Act, as amended by this Act, unless the addition was revoked by the Tribunal with effect from that commencement.

(4) Any amounts paid before 26th March, 1978, under section 19 (4) of the Principal Act in respect of the year commencing on 1st July, 1977, shall be deemed to have been paid under section 19 (4) of the Principal Act, as amended by this Act.

(5) Nothing in this Act takes away the right to a pension under the Principal Act of a person who was in receipt of or eligible for the pension immediately before 26th March, 1978, but such a person shall be entitled thereto to in accordance with and at the rates prescribed by the Principal Act, as amended by this Act.

(6) Without affecting the generality of Division 2 of Part II of the Principal Act, as amended by this Act, where, but for this Act, a person in receipt of or eligible for an addition under section 9 (1) (a) or (c) of the Principal Act immediately before 26th March, 1978, would be entitled to the addition for any period commencing on 26th March, 1978, he is entitled instead to a pension at the married man's rate, as referred to in the Principal Act, as amended by this Act, in respect of that period.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 2—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(7) Notwithstanding the repeal by this Act of the provisions of section 9 (1) (a) and (c), (1A) and (1B) of the Principal Act, those provisions apply to and in respect of—

(a) the period commencing on 1st January, 1978, and ending on 25th March, 1978; and

(b) any previous period,

as if this Act had not been enacted, but as if the period referred to in paragraph (a) were a prescribed period within the meaning of section 9 (1A) of the Principal Act.

(8) Nothing in the Interpretation Act, 1897, requires an actuarial examination or report to be made under section 27 of the Principal Act after the repeal of that section by this Act.

(9) Section 10F of the Principal Act, as amended by this Act, shall, but only if the Minister so approves by instrument in writing, apply to and in respect of a variation of a kind referred to in that section and made before 26th March, 1978.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 22nd March, 1978.*

THE UNIVERSITY OF CHICAGO

PHYSICS

DEPARTMENT OF PHYSICS

REPORT OF THE PHYSICS DEPARTMENT
FOR THE YEAR 1954-1955

The Department of Physics at the University of Chicago has been fortunate in the past few years to have had a number of distinguished visitors. These include Professor J. R. Oppenheimer, who spent the summer of 1954 in the Department, and Professor R. F. Feynman, who spent the summer of 1955 in the Department. Both of these visits were most fruitful and enjoyable.

The Department has also been fortunate in the past few years to have had a number of distinguished graduates. These include Professor J. R. Oppenheimer, who spent the summer of 1954 in the Department, and Professor R. F. Feynman, who spent the summer of 1955 in the Department.

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PHYSICS

**COAL AND OIL SHALE MINE WORKERS (SUPER-
ANNUATION) AMENDMENT ACT, 1978, No. 28**

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 28, 1978.

An Act to amend the Coal and Oil Shale Mine Workers (Super-
annuation) Act, 1941, with respect to the entitlement of mine
workers and other persons to benefits under the Act, and in
other respects. [Assented to, 22nd March, 1978.]

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

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

Short title. **1.** This Act may be cited as the "Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978".

Commence- **2.** (1) This section, section 1 and Schedule 2 (1) and (2)
ment. shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on 26th March, 1978.

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

Schedules. **4.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

Amend- **5.** The Principal Act is amended in the manner set forth in
ment of Schedule 1.
Act No. 45,
1941.

Savings and **6.** Schedule 2 has effect.
transitional
provisions.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Long title—

Omit “pensions”, insert instead “benefits”.

(2) (a) Section 1 (2)—

Omit the matter relating to Part II, insert instead :—

PART II.—COMPULSORY RETIREMENT, AND
BENEFITS—ss. 5–14G.

DIVISION 1.—*Compulsory Retirement*—ss. 5,
5A.

DIVISION 2.—*Pension Benefits*—ss. 5B–14.

DIVISION 3.—*Lump Sum Benefits*—ss. 14A–14H.

(b) Section 1 (2)—

From the matter relating to Part IVB, omit “19K”,
insert instead “19M”.

(c) Section 1 (2)—

After “SCHEDULE”, insert “1”.

(3) (a) Section 2 (1), definition of “Authorised period”—

Before the definition of “Conciliation and Arbitration
Act”, insert :—

“Authorised period”, in relation to a person, means
a period declared by the Tribunal under
section 3A to be, with respect to that person,
an authorised period for the purpose of this
Act.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 2 (1), definition of "Reference Rate"—

After the definition of "Prescribed", insert :—

"Reference Rate", as at any particular time, means such rate as the Minister declares in an order under subsection (5) in force as at that time to be the specified rate for the purposes of this definition.

(c) Section 2 (5), (6)—

At the end of section 2, insert :—

(5) Where there is a variation in the weekly rate of wage prescribed for the classification of loaderman in an industrial award applying to the coal mining industry in New South Wales, the Minister, on the recommendation of the Tribunal—

(a) shall, in and by an order published in the Gazette as soon as practicable after the variation is made—

(i) subject to subparagraph (ii)—
specify that rate as so varied and declare it to be the specified rate for the purposes of the definition of "Reference Rate" in subsection (1);
or

(ii) where there are 2 or more such rates so prescribed—specify one of those rates as so varied and declare it to be the specified rate for the purposes of that definition; and

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) shall, in the order, specify the date as from which the order takes effect, being the date as from which the specified rate became or becomes payable as wages to loadermen or any class of loadermen,

and any previous order made under this subsection shall not be in force in respect of any period commencing on or after the date so specified.

- (6) A reference in this Act to a pension—

- (a) at the single man's rate is a reference to a pension payable at a rate specified in Schedule 1 (1); or
- (b) at the married man's rate is a reference to a pension payable at a rate specified in Schedule 1 (2).

- (4) Section 2E (11)—

After section 2 (10), insert :—

(11) No permits issued under this section shall be in force in respect of any period after 25th March, 1978.

- (5) Section 3A—

After section 3, insert :—

- 3A. (1) Where the Tribunal is satisfied that—

Authorised
periods.

- (a) a mine worker has not been engaged in the coal or oil shale mining industries for a period after 25th March, 1978, because his engagement in the industries has been terminated by reason of retrenchment or cavil out or act of God (including fire or flood) or by reason of his ill health;

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

*SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT—continued.*

(b) he did not become eligible for a lump sum benefit payment under this Act by virtue of that termination; and

(c) either—

(i) he became engaged in the industries at the earliest reasonable opportunity after that termination; or

(ii) no such opportunity arose before the date of retirement,

the Tribunal may declare that period to be, with respect to that mine worker, an authorised period for the purposes of this Act.

(2) The Tribunal may refuse to make a declaration under subsection (1) if for any reason the Tribunal thinks it proper to do so or if—

(a) the mine worker, as soon as reasonably practicable after the termination of his engagement in the coal or oil shale mining industries, did not notify the Tribunal of that termination; and

(b) he did not satisfy the Tribunal, as required from time to time by the Tribunal, that he has taken reasonable steps to secure further employment in the industries.

(3) A declaration may be made under subsection (1) subject to such terms and conditions as the Tribunal thinks proper and, if any such term or condition is not complied with, the Tribunal may revoke the declaration either wholly or with respect to any period.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) Where a period is, with respect to a mine worker, an authorised period, he shall, for the purposes of this Act (Division 3 of Part II excepted), be deemed to have been during that period—

(a) engaged in the coal or oil shale mining industries;
and

(b) engaged in work in or about a coal or oil shale mine.

(5) For the purposes of this section, an apprentice whose employment as a mine worker is terminated on completion of his apprenticeship shall be deemed to have been retrenched.

(6) (a) Section 4 (1) (a)—

Omit “pensions”, insert instead “benefits”.

(b) Section 4 (2) (c)—

Omit “pension awarded”, insert instead “benefit payable”.

(c) Section 4 (2) (e)—

Omit “pension”, insert instead “benefit”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) Part II, headings—

Omit the headings, insert instead :—

PART II.

COMPULSORY RETIREMENT, AND BENEFITS.

DIVISION 1.—*Compulsory Retirement.*

(8) Section 5A—

After section 5, insert :—

Extension of
compulsory
retiring
age.

5A. Where, but for this section, the retiring age of a mine worker would be the age of sixty years, his retiring age shall be the age of sixty-five years, if he is a mine worker of a class prescribed for the purposes of this section :

Provided that any mine worker to whom this section applies may retire or be retired at any time after he attains the age of sixty years and before he attains the age of sixty-five years :

Provided further that the provisions of this Act, in their application to and in respect of such a mine worker, shall be deemed to be modified to the following extent, that is to say—sections 5 and 6 shall have and take effect as if the age of sixty-five years or, where he retires or is retired before the age of sixty-five years, the age at which he retires or is retired were substituted for the age of sixty years referred to therein, and references in this Act to the “date of retirement” shall be construed accordingly.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(9) Part II, Division 2, heading—

After section 5A, insert :—

DIVISION 2.—*Pension Benefits.*

(10) Section 5B—

Before section 6, insert :—

5B. Notwithstanding anything in this Act, where, but ^{Application} for this section, a person would be entitled to a pension ^{of this} under this Act, he shall not be eligible for it unless— ^{Division.}

(a) in the case of a pension under section 6—

(i) he became eligible for the pension before 26th March, 1978; or

(ii) he is entitled to no benefit under section 14A;

(b) in the case of a pension under section 7—he is entitled to no benefit under section 14E and his incapacity referred to in section 7 arose before 26th March, 1978;

(c) in the case of a pension under section 8—

(i) the date of retirement of the person is before 26th March, 1978; or

(ii) he is entitled to no benefit under section 14E and the Tribunal is of the opinion that the pension should be awarded to him on account of an incapacity which arose before 26th March, 1978; or

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(d) in the case of a pension under section 10 or 10A —

(i) the death of the person in consequence of which the pension is payable occurred before 26th March, 1978; or

(ii) the death of the pensioner in consequence of which the pension is payable occurred on or after 26th March, 1978.

(11) (a) Section 6B (1)—

Omit “this section”, insert instead “section 6A”.

(b) Section 6B (2), (3)—

Omit the subsections.

(c) Section 6B (5)—

Omit the subsection.

(12) Section 6C (2) (c)—

Omit “a permit” where firstly occurring, insert instead “if his employment was so terminated before 26th March, 1978 —a permit”.

(13) Section 8 (1)—

After “Part” where firstly occurring, insert “(other than section 5B)”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(14) Section 8A—

After section 8, insert :—

8A. (1) A person who is in receipt of, or eligible to receive, a pension under section 6, 7 or 8 is entitled to receive that pension at the married man's rate—

Entitled to mine worker's pension at the married man's rate.

(a) if he is a married man; or

(b) if he is not so entitled by virtue of paragraph (a), and if one female is dependent on his earnings, and if she—

(i) is an adult and is caring for any child or step-child of the mine worker under the age of 16 years; or

(ii) is a member of the mine worker's family and is over the age of 16 years,

but only until her death or marriage or until she ceases to be such a dependant.

(2) For the purposes of this section, a person is dependent on a mine worker during any period only if the Tribunal is satisfied that the person was totally or mainly dependent for financial support on the mine worker during that period.

(15) (a) Section 9 (1)—

Omit "section 6B,".

(b) Section 9 (1) (a)—

Omit the paragraph.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 9 (1) (b)—

Omit “who is or becomes totally dependent on his earnings”.

(d) Section 9 (1) (c)—

Omit the paragraph.

(e) Section 9 (1A), (1B)—

Omit the subsections.

(f) Section 9 (5)—

Omit “section 6B.”.

(g) Section 9 (5)—

After “section 8,” insert “and whose pension is payable to him at the married man’s rate specified in Column 5 of Schedule 1 (2).”.

(h) Section 9 (5)—

Omit “, where the wife is in receipt of or entitled to receive age or invalid pension under the Social Services Act, in lieu of the amount referred to in paragraph (a) of subsection (1).”.

(i) Section 9 (5)—

Omit “plus an amount per week equal to the amount (if any) by which the amount per week payable as an addition to a pension pursuant to paragraph (a) of subsection (1) exceeds the maximum rate per week applicable in the circumstances and fixed by or in accordance with the Social Services Act for age or invalid pension”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(j) Section 9 (5A)—

Omit “section 6B,”.

(k) Section 9 (5A)—

Omit “who is not eligible for an addition to his pension pursuant to paragraph (a) or (c) of subsection (1) or pursuant to subsection (5)”, insert instead “whose pension is payable to him at the single man’s rate specified in Column 5 of Schedule 1 (1)”.

(l) Section 9 (6)—

Omit “section 6B,”.

(16) (a) Section 10 (1) (a)—

Omit “section 6B,”.

(b) Section 10 (1)—

Omit “an addition to his pension under paragraph (c) of subsection (1) of section 9”, insert instead “his pension at the married man’s rate”.

(17) (a) Section 10A (1) (b) (i)—

Omit “section 6B,”.

(b) Section 10A (1)—

After “section 9” where secondly occurring, insert “of this Act as in force at any time before 26th March, 1978,”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 10A (1A)—

After section 10A (1), insert :—

(1A) For the purposes of section 8A, where the Tribunal is satisfied that at the date upon which a mine worker is awarded a pension under this Act any female was recognised as his wife although not legally married to him, she shall, if the Tribunal so approves, be deemed to be his wife.

(d) Section 10A (6)—

After section 10A (5), insert :—

(6) For the purposes of this Division and notwithstanding anything contained therein, the Tribunal shall, as far as practicable, treat a couple, whether married or not, in such a way as, in the opinion of the Tribunal, is consistent with the way they are treated for the purposes of the Social Services Act or any other prescribed law of the Commonwealth.

(18) Section 10EA—

Omit the section, insert instead :—

Appropriate
amounts of
pensions
and
additions
thereto.

10EA. (1) For the purposes of any provision of this Act in which there is a reference to the appropriate amount per week payable as a pension or addition to a pension, the appropriate amount per week payable to or in respect of a person who is described in Column 3 of Schedule 1 shall—

- (a) in the case of a person who is in receipt of, or eligible to receive, the pension or addition referred to in any such description on 26th March, 1978—be, as from that date; or

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) in the case of a person who becomes eligible therefor after that date—be, as from the date on which he becomes so eligible,

as follows :—

(c) until—

- (i) except in the case of a person referred to in subparagraph (ii) or (iii)—the day immediately preceding the first mine workers' pension pay period occurring after the expiration of the period of 5 years commencing on the date on which the pension concerned became payable;
- (ii) in the case of a person who is in receipt of a pension under section 7 or 8 and who has not at the first mine workers' pension pay period occurring after the expiration of the period of 5 years referred to in subparagraph (i) attained the age of 60 years—the day immediately preceding the first mine workers' pension pay period occurring after the day on which he attains that age; or
- (iii) in the case of a person who is in receipt of a pension at the Special Rate of Pension referred to in the Second Schedule to the Repatriation Act 1920 of the Parliament of the Commonwealth as amended by subsequent Acts of that Parliament, or of any other prescribed class of pension under a law of the Commonwealth, and who has not

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

attained the age of 65 years—the day immediately preceding the first mine workers' pension pay period after the day on which he attains that age,

the amount specified in Column 4 of Schedule 1 opposite the relevant description; and

- (d) thereafter, the rate specified in Column 5 of that Schedule opposite that description.

(2) For the purposes of determining any period of 5 years referred to in subsection (1) (c), periods before 26th March, 1978, as well as periods after 25th March, 1978, shall be taken into account.

(3) Where, but for this subsection, a pension would be payable at 26th March, 1978, to a person at the rate specified in Column 5 of Schedule 1 (1), (2) or (3) and the amount of the pension would be less than the amount that would be payable as a pension (together with any addition under section 9 (1) (a) or (c)) had the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, not been enacted, then subsection (1) (c) shall be construed as if it provided for 23rd September, 1978, to be the day until which the relevant amount specified in Column 4 of Schedule 1 is payable.

(4) Where, but for this subsection, the period of 5 years referred to in subsection (1) (c) applicable to a person expires after 26th March, 1978, but before 24th September, 1978, subsection (1) (c) shall be construed as if it provided for 23rd September, 1978, to be the day until which the relevant amount specified in Column 4 of Schedule 1 is payable.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(5) Notwithstanding subsections (1), (3) and (4), where, but for this subsection, a pension would be payable at 23rd September, 1978, to a person referred to in subsection (1) (c) (ii) at the rate specified in Column 5 of Schedule 1 (1) or (2) and the person was, in the opinion of the Tribunal, not at that date eligible for a pension under any law of the Commonwealth, then subsection (1) (c) shall, if the Tribunal in its discretion so directs, be construed as if it provided for the day immediately preceding the first mine workers' pension pay period occurring after—

- (a) the day on which he attains the age of 65 years;
or
- (b) the day as from which, in the opinion of the Tribunal, he became eligible for a pension under any law of the Commonwealth,

whichever first occurs, to be the day until which the relevant amount specified in Column 4 of Schedule 1 is payable.

(6) For the purposes of this section, a person in receipt of, or eligible to receive, a pension under section 6, 7 or 8 for any period before 26th March, 1978, shall—

- (a) be deemed to have been in receipt of the pension at the single man's rate for any part thereof during which he did not receive, or was not eligible for, an addition under section 9 (1) (a) or (c) of this Act as in force at any time before that date; and
- (b) be deemed to have been in receipt of the pension at the married man's rate for any part thereof during which he received, or was eligible for, such an addition.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) For the purposes of determining any period of 5 years referred to in subsection (1) (c)—

- (a) any period during which a person received a pension at the single man's rate shall be deemed also to be a period during which he received a pension at the married man's rate;
- (b) any period during which a person received a pension at the married man's rate shall be deemed also to be a period during which he received a pension at the single man's rate; and
- (c) any period during which a person received a pension at the married man's rate shall be deemed also to be a period during which his widow, or a female treated under this Act as his wife, received a pension.

(8) Nothing in this section affects anything contained in section 11A.

19) (a) Section 10F (1)–(3)—

Omit the subsections, insert instead :—

(1) Where there is a variation in the amount of the Reference Rate, the Minister, on the recommendation of the Tribunal, shall, by order published in the Gazette as soon as practicable after the variation, amend Column 4 of Schedule 1—

- (a) by omitting the reference to the amount in Item (1) and by inserting instead a reference to the amount that equals 35 per cent. of the Reference Rate;
- (b) by omitting the reference to the amount in Item (2) and by inserting instead a reference to the amount that equals 50 per cent. of the Reference Rate;

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (c) by omitting the reference to the amount in Item (3) and by inserting instead a reference to the amount that equals 30 per cent. of the Reference Rate; and
- (d) by omitting the reference to the amount in Item (4) and by inserting instead a reference to the amount that equals 5 per cent of the Reference Rate.

(2) Where the age pension payable to a single pensioner under the Social Services Act is varied, or there is a variation in the amount of the Reference Rate, the Minister, on the recommendation of the Tribunal, shall, by order published in the Gazette as soon as practicable after the variation, amend Column 5 of Schedule 1—

- (a) by omitting the reference to the amount in Item (1) and by inserting instead a reference to the amount that equals the amount specified in Column 4 of the Item, reduced by the amount of the maximum weekly rate of age pension payable under the Social Services Act for a single pensioner;
- (b) by omitting the reference to the amount in Item (2) and by inserting instead a reference to the amount that equals the amount specified in Column 4 of the Item, reduced by the amount of the maximum weekly rate of the age pension payable under the Social Services Act for married couple pensioners;
- (c) by omitting the reference to the amount in Item (3) and by inserting instead a reference to the amount that equals the amount specified in Column 4 of the Item, reduced

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

by the amount of the maximum weekly rate of age pension payable under the Social Services Act for a single pensioner; and

- (d) by omitting the reference to the amount in Item (4) and by inserting instead a reference to the amount that equals the amount specified in Column 4 of the Item.

- (b) Section 10F (4)—

Omit “the Schedule”, insert instead “Schedule 1”.

- (c) Section 10F (5)—

After “before”, insert “, on”.

- (d) Section 10F (7)—

Omit “or 13”.

- (e) Section 10F (8), (9)—

After section 10F (7), insert :—

(8) Where there is a variation in the amount of the Reference Rate, a reference in subsection (2) to the amount specified in Column 4 of an Item of Schedule 1 is a reference to such amount as is, in accordance with subsection (1), inserted or to be inserted in that Column in consequence of that variation.

(9) Notwithstanding anything in this section, any amount to be inserted in Schedule 1 in pursuance of this section may be rounded off in such manner as the Minister, on the recommendation of the Tribunal, thinks proper, but so that the variation authorised by this subsection does not exceed 5 cents.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(20) (a) Section 10G—

Omit “Item 1 of the Schedule”, insert instead
“Schedule 1 (1) or (2)”.

(b) Section 10G (a)—

Omit the paragraph, insert instead :—

(a) 26th March, 1978; or

(21) Section 10H—

After section 10G, insert :—

10H. (1) Notwithstanding anything in this Division, where a person entitled to receive a pension under this Act would, in the opinion of the Tribunal, thereby be prejudicially affected in respect of any benefits otherwise receivable by that person, the amount of the pension payable shall be such lesser amount than that provided for under this Division as the Tribunal from time to time determines.

Suspension
of part of
pension in
certain
circum-
stances.

(2) Where the Tribunal reduces, under subsection (1), the amount of a pension, the amount by which the pension is so reduced shall be payable in respect of such periods or at such times by way of lump sum or otherwise as the Tribunal from time to time determines.

(22) Section 11 (1)—

Omit “section 6B,”.

(23) Section 11A (1)—

Omit “and the addition to a pension payable under paragraph (a) or (c) of subsection (1) of section 9”, insert instead “(together with, in relation to any period before 26th March, 1978, the amount (if any) of the addition to the pension payable under section 9 (1) (a) or (c) of this Act as in force at any time before that date)”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.SCHEDULE 1—continued.AMENDMENTS TO THE PRINCIPAL ACT—continued.

(24) Section 13 (4)—

After section 13 (3), insert :—

(4) Subject to section 19B, the foregoing provisions of this section have no effect in respect of any period after 25th March, 1978.

(25) (a) Section 14 (1) (a)—

Omit “the prescribed form”, insert instead “a form approved by the Tribunal”.

(b) Section 14 (1) (b)—

Omit “prescribed”, insert instead “approved by the Tribunal”.

(c) Section 14 (1) (c)—

Omit “as prescribed;”, insert instead “by statutory declaration; and”.

(26) Part II, Division 3—

Before Part III, insert :—

DIVISION 3.—*Lump Sum Benefits.*

Lump sum
benefit
payments
to
retired
mine
workers.

14A. (1) A mine worker whose date of retirement is on or after 26th March, 1978, is, on retirement, entitled to a lump sum benefit payment at the rate prescribed by this section—

- (a) if every part of the period of 10 years immediately before the date of retirement was either a period when he was engaged in the coal or oil shale mining industries or an authorised period; and
- (b) if he has been engaged in the industries for a period of not less than 10 years or for 2 or more periods together amounting to not less than 10 years.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) A person entitled to a lump sum benefit under this section is entitled to payment thereof at the rate of the prescribed amount for each completed calendar month of service in the coal or oil shale mining industries.

(3) In subsection (2), “the prescribed amount”, in relation to a person entitled to a lump sum benefit payment under this section, means the prescribed amount, referred to in section 14B, as at that person’s date of retirement.

(4) The amount of any lump sum benefit payment otherwise payable to any person under this section shall not include payment for any period of engagement in the coal or oil shale mining industries before 21st November, 1941, unless evidence of his engagement in those industries satisfactory to the Tribunal has been furnished to the Tribunal.

(5) Where a person is a mine worker by virtue of any extension, by or under section 2A or any following section, of the definition of “Mine worker” in section 2 (1), the amount of any lump sum benefit payment otherwise payable to that person under this section shall not include payment for any period of engagement in the coal or oil shale mining industries before he became liable to and did commence to contribute to the Fund.

(6) The amount of any lump sum benefit payment otherwise payable to any person under this section shall not include payment for any period of engagement in the coal or oil shale mining industries in respect of which—

- (a) a pension or addition thereto is or was payable under this Act to or in respect of him or consequent upon his death; or
- (b) a lump sum benefit payment has already been made under this Act to or in respect of him.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) The amount of any lump sum benefit payment otherwise payable to any person under this section shall not include payment for—

(a) any period of engagement in the coal or oil shale mining industries in respect of which a refund of his contributions has been made under this Act; or

(b) any period before that referred to in paragraph (a).

Prescribed
amount
for
purposes
of section
14A.

14B. (1) For the purposes of section 14A, the prescribed amount is, subject to the following provisions of this section, \$100.

(2) Where a variation of the Reference Rate takes effect under section 2 (5) on or after 26th March, 1978, but before 26th March, 1979, and that variation was not made after 26th March, 1979, the Minister, on the recommendation of the Tribunal, shall, by an order published in the Gazette as soon as practicable after the variation—

(a) vary the prescribed amount in line with and by the same percentage as the Reference Rate was varied; and

(b) specify the date as from which the variation takes effect, being the date the variation of the Reference Rate takes effect.

(3) After 26th March, 1979, the Minister, on the recommendation of the Tribunal (made by it after taking into consideration the recommendation of the actuary

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

made in connection therewith and contained in a report furnished under section 27), may, by an order published in the Gazette—

- (a) vary the prescribed amount; and
- (b) specify the date as from which the variation takes effect.

(4) A date specified in an order published under subsection (2) or (3) may be a date that is before, on or after the date of publication of the order in the Gazette, and, in the case of an order published under subsection (3), before, on or after 26th March, 1979.

(5) A variation shall not be made under subsection (3) that would result in the prescribed amount being greater than it would be if it were varied in line with and by the same percentage as variations in the Reference Rate.

(6) Where, but for this subsection, the prescribed amount would include a fraction of a cent, that fraction shall, if less than half a cent, be disregarded, or shall, if half a cent or more, be treated as 1 cent.

14C. (1) Where a person whose date of retirement was on or after 7th November, 1977, but before 26th March, 1978, is in receipt of or eligible for a pension under section 6, he is, on application made to the Tribunal before 26th May, 1978, entitled to the lump sum benefit payment to retired mine workers: special provisions. which he would have been entitled under section 14A—

- (a) had the amendments made by the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, been in force at the date of retirement; and

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) had the reference in section 14A (1) to 26th March, 1978, been a reference to the date of retirement,

but reduced by the amount of any pension or additions thereto paid to or in respect of him, or consequent upon his death, since the date of retirement.

- (2) For the purposes of subsection (1), section 14A (6) (a) does not apply to any pension or addition paid to or in respect of the person referred to in subsection (1), or consequent upon his death, since the date of retirement.

- (3) Upon payment of a lump sum benefit pursuant to an application made by a person under this section, no pension or addition thereto is thereafter payable to or in respect of him or consequent upon his death.

- (4) The Tribunal—

- (a) may refrain from approving an application under this section during the period of 139 days after the date of retirement of the applicant, although satisfied that the application is such as may otherwise be approved; but
- (b) shall not, in any case, approve such an application before 26th May, 1978.

- (5) If a person dies after making an application under this section, but before payment of the lump sum benefit, the benefit shall, when the application is approved, be paid to his personal representatives.

- (6) An application under this section may be withdrawn at any time before it is approved.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

14D. (1) In this section—

Lump sum
benefit
payment
on death
of mine
worker.

“child”, in relation to a mine worker referred to in subsection (2), means his child or step-child under the age of 18 years;

“prescribed dependent amount”, in relation to a mine worker referred to in subsection (3), means the amount that equals 240 times the amount that is the prescribed amount (as referred to in section 14B) as at the date of his death;

“relative” means brother, sister, step-brother, step-sister, grandmother, grandfather, grandson or granddaughter.

(2) Where a mine worker dies on or after 26th March, 1978, while engaged in the coal or oil shale mining industries or during an authorised period, and a lump sum benefit has not been paid or is not payable under any other section of this Division to or in respect of the mine worker or consequent upon his death—

- (a) his widow is entitled to a lump sum benefit payment of the prescribed dependent amount;
- (b) if a benefit is payable under paragraph (a)—each of his dependent children is entitled to a lump sum benefit payment as follows :—
 - (i) where there are not more than 3 dependent children—the lump sum benefit for each such child is an amount equal to one-third of the prescribed dependent amount; or

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(ii) where there are more than 3 dependent children—the lump sum benefit for each such child is an amount equal to the prescribed dependent amount divided by the number of such dependent children;

(c) if a benefit is not payable under paragraph (a)—each of his dependent children is entitled to a lump sum benefit payment as follows :—

(i) where there are not more than 3 dependent children—the lump sum benefit for each such child is an amount equal to two-thirds of the prescribed dependent amount; or

(ii) where there are more than 3 dependent children—the lump sum benefit for each such child is an amount equal to twice the prescribed dependent amount divided by the number of such dependent children; and

(d) if there are fewer than 3 dependent children—

(i) each of his dependent parents is entitled to a lump sum benefit payment of three-quarters of the prescribed dependent amount;

(ii) each of his dependent relatives is entitled to a lump sum benefit payment of one-half of the prescribed dependent amount; and

(iii) each of his other dependants is entitled to a lump sum benefit payment of one-quarter of the prescribed dependent amount, unless entitled to a benefit under any other provision of this subsection.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) For the purposes of this section, a person is dependent on a mine worker referred to in subsection (2), only if the Tribunal is satisfied that the person was totally or mainly dependent for financial support on the mine worker at the date of the mine worker's death or, in the case of a child of the mine worker, that the child had not attained the age of 16 years at that date.

(4) Where the wife of a mine worker referred to in subsection (2) dies—

(a) at the same moment as he dies or in circumstances rendering it uncertain which of them survived the other; or

(b) within 48 hours before he dies,
she shall, for the purposes of this section, be deemed to have been alive at the time of his death.

(5) For the purposes of this section, where there is no wife or widow of a mine worker referred to in subsection (2), a woman who was recognised as his wife although not legally married to him shall, if the Tribunal so approves, be deemed to be his wife or widow.

(6) The lump sum benefit to which a child is entitled under this section is payable to one of the child's parents or guardians for the child's support and education or to the child as soon as practicable after his attaining the age of 18 years.

(7) The maximum total amount payable under this section consequent upon the death of a mine worker shall not exceed double the prescribed dependent amount, and where, but for this subsection, that amount would be exceeded, the benefits payable under subsection (2) (d) shall, to the necessary extent, be reduced proportionately or, if necessary, not be paid.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

Lump sum
benefit
payment
for
disabled
mine
workers.

14E. (1) Where a mine worker—

(a) proves to the satisfaction of the Tribunal—

- (i) that he has been incapacitated by injury during a period when he was engaged in the coal or oil shale mining industries;
- (ii) that by reason of his incapacity he is unable to continue his engagement in those industries and that the date of his disability was on or after 26th March, 1978; and
- (iii) that the incapacity is likely to be permanent and is of a major and effectively disabling kind;

(b) has not been awarded a pension under section 6, and is not entitled to a lump sum benefit payment under section 14A, in respect of the incapacity; and

(c) has submitted himself to any examination required under subsection (3),

he is entitled to a lump sum benefit payment of the amount determined under subsection (2).

(2) The amount of a lump sum benefit payable under this section is—

(a) where the Tribunal is satisfied that the incapacity was caused by injury as a mine worker—an amount equal to the amount that would have been payable to him under section 14A—

- (i) had he continued being engaged in the coal or oil shale mining industries until the date of retirement;

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (ii) had section 14A (1) (a) and (b) not been enacted; and
 - (iii) had the reference in section 14A (3) to his date of retirement been a reference to the date of his disability; or
- (b) in any other case—an amount equal to a percentage of the amount referred to in paragraph (a), being 10 per cent. of that amount, together with a further 10 per cent. for each completed year of his engagement in the coal or oil shale mining industries before the date of his disability, to a maximum of 100 per cent.
- (3) The Tribunal may require an applicant for payment of a lump sum benefit under this section to submit himself to examination by a panel of 3 medical practitioners nominated by the Tribunal and the Tribunal shall, in making any such nomination, have regard to any representations made in regard thereto by the applicant.
- (4) A person is not entitled to a lump sum benefit payment where the incapacity was caused by his act or default intended by him to produce that incapacity.
- (5) For the purposes of this section, the date on which a person's incapacity arises and the date of his disability shall be deemed to be such date or dates as may be determined by the Tribunal, and the Tribunal shall, in making a determination under this subsection, have regard to all the circumstances of the case, including—
 - (a) his medical and employment history; and
 - (b) the date on which he ceased to be able to be effectively employed as a mine worker.

*Coal and Oil Shale Mine Workers (Superannuation) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) In this section, a reference to—

- (a) injury includes a reference to illness; and
- (b) the date of a mine worker's disability is a reference to the date on which he becomes unable to continue his engagement in the coal or oil shale mining industries by reason of incapacity referred to in this section.

Lump sum
benefit
payment for
disabled
mine
workers:
special
provisions.

14F. (1) Where a person, who is in receipt of or eligible for a pension under section 7 or 8 by reason of incapacity, became eligible for the pension on or after 7th November, 1977, but before 26th March, 1978, he is, on application made to the Tribunal before 26th May, 1978, entitled to the lump sum benefit payment to which he would have been entitled under section 14E—

- (a) had the amendments made by the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, been in force at the date he became eligible for the pension; and
- (b) had the words “has not been awarded a pension under section 6, and” been omitted from section 14E (1) (b),

but reduced by the amount of any pension or additions thereto paid for or in respect of him, or consequent upon his death, since he became eligible for the pension.

(2) For the purposes of subsection (1), section 14A (6) (a) does not apply to any pension or addition paid to or in respect of the person referred to in subsection (1), or consequent upon his death, since the date he became eligible for the pension.

(3) Upon payment of a lump sum benefit pursuant to an application made by a person under this section, no pension or addition thereto is thereafter payable to or in respect of him or consequent upon his death.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) The Tribunal—

- (a) may refrain from approving an application under this section during the period of 139 days after the date the applicant became eligible for the pension, although satisfied that the application is such as may otherwise be approved; but
- (b) shall not, in any case, approve such an application before 26th May, 1978.

(5) If a person dies after making an application under this section, but before payment of the lump sum benefit, the benefit shall, when the application is approved, be paid to his personal representatives.

(6) An application under this section may be withdrawn at any time before it is approved.

14G. For the purposes of this Division, a mine worker shall not be deemed to be “engaged in the coal or oil shale mining industries” by reason of the operation of section 2 (2) (b) or (c). Certain periods not be counted.

14H. (1) Every application for a lump sum benefit payment— Applications for lump sum benefit payment.

- (a) shall be in or to the effect of a form approved by the Tribunal;
- (b) shall contain such particulars as may be approved by the Tribunal;
- (c) shall be verified by statutory declaration; and
- (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.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(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.

(4) The Tribunal shall thereupon consider the application and report.

(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, shall extend to the making of rules for regulating the procedure and practice of the 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 rules in relation to the exercise of the jurisdiction conferred upon the 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 number of completed calendar months of employment as a mine worker in respect of which the lump sum benefit payment is payable under this Act.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(10) Where the Tribunal refers the application to the Workers' Compensation Commission, the Commission shall, in its determination, specify the number of completed calendar months of employment as a mine worker in respect of which the lump sum benefit payment is payable under this Act.

(11) Any determination of the Commission under this section 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.

(27) Section 18 (2) (b)—

Omit the paragraph, insert instead :—

(b) There shall be payable out of the Fund all pensions, additions to pensions, lump sum benefit payments and refunds of contributions authorised to be paid under this Act.

(28) (a) Section 19 (1)–(4)—

Omit the subsections, insert instead :—

(1) Contributions shall be payable to the Fund in respect of each mine worker at—

(a) the rate per week of 10 per cent. of the Reference Rate; or

(b) such other rate per week as may from time to time be fixed by the Minister, by order published in the Gazette, after taking into consideration a recommendation of the Tribunal made by it after—

(i) taking into consideration a report of the actuary furnished under section 27; and

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

*SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT—continued.*

- (ii) consultation between it and representatives of such organisations of mine workers and owners as the Minister considers appropriate.

(2) Contributions under subsection (1) shall be payable in respect of mine workers—

- (a) as to one-quarter thereof—by the mine workers; and
- (b) as to three-quarters thereof—by the owners.

(2A) For the purpose of providing any additional funds necessary to make provision for or towards the payment of benefits under this Act for such period after 26th March, 1978, as the Minister, on the recommendation of the Tribunal, thinks fit, special contributions shall, in addition to the contributions payable by the owners under the foregoing provisions of this section, be payable to the Fund by the owners in respect of each mine worker—

- (a) at the rate of 5.5 per cent. of the Reference Rate; or
- (b) at such lower rate as may from time to time be fixed by the Minister, by order published in the Gazette, on the recommendation of the Tribunal made by it after—
 - (i) taking into consideration a report of the actuary furnished under section 27; and
 - (ii) consultation between it and representatives of such organisations of mine workers and owners as the Minister considers appropriate.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) The Minister, on the recommendation of the Tribunal, shall, in an order made under subsection (1) or (2A), specify the date as from which the order shall take effect.

(3A) In an order made under subsection (1) or (2A), different dates may be specified for the purposes of subsection (3) in respect of different classes of mine workers, and the dates so specified may be dates before, on or after the date of publication of the order in the Gazette.

(4) There shall be payable to the Fund by the Treasurer, out of money provided by Parliament, the following amounts :—

- (a) for the year commencing on 1st July, 1977
—\$48,000;
- (b) for the year commencing on 1st July, 1978
—\$32,000; and
- (c) for the year commencing on 1st July, 1979
—\$16,000.

(b) Section 19 (4A)—

Omit the subsection.

(c) Section 19 (5)—

Omit “Without prejudice to the generality of the foregoing provisions of this subsection regulations may prescribe the basis or bases upon which the contribution of individual owners may be assessed.”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(d) Section 19 (6)—

Omit “Without prejudice to the generality of the foregoing provisions of this subsection the regulations may prescribe the basis or bases upon which the contributions of individual mine workers are to be assessed, and”, insert instead “The regulations”.

(e) Section 19 (6)—

Omit “such contributions”, insert instead “such moneys”.

(f) Section 19 (8)—

Omit the subsection.

(29) Section 19A (3)—

Omit “, 6B”.

(30) (a) Section 19B (1) (b)—

Omit “, 6B”.

(b) Section 19B (2) (a)—

Omit “sections 11A and 13”, insert instead “section 11A and section 13 (subsection (4) of which shall, for the purposes of this section, be deemed never to have been in force)”.

(c) Section 19B (2)—

Omit “, 6B”.

(d) Section 19B (6)—

At the end of section 19B, insert :—

(6) Subsection (1) (b) does not apply to or in respect of a mine worker entitled to a lump sum benefit payment under Division 3 of Part II.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(31) Section 19J (1)—

After “terminated” where firstly occurring, insert “before 26th March, 1978,”.

(32) Section 19K—

Omit “this Part” wherever occurring, insert instead “section 19J”.

(33) Sections 19L, 19M—

After section 19K, insert :—

19L. (1) Subject to this Part, where a mine worker's engagement in the coal or oil shale mining industries has been terminated on or after 26th March, 1978, and the Tribunal is satisfied—

Refund of contributions where mine worker ceases to be employed on or after 26.3.1978.

(a) that—

- (i) where his engagement was so terminated otherwise than by reason of his death and he has not died thereafter—he is not eligible for a pension or entitled to a lump sum benefit payment under this Act;
- (ii) where his engagement was so terminated by reason of his death—no person is eligible for a pension or entitled to a lump sum benefit payment under this Act consequent upon his death; or
- (iii) where his engagement was so terminated otherwise than by reason of his death and he has died thereafter—he was not, after that termination of his engagement, eligible for a pension or entitled to a lump

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

sum benefit payment under this Act, and no person is eligible for a pension under this Act consequent upon his death; and

- (b) that he has, being liable to do so, paid contributions to the Fund for a period of not less than one year immediately before that termination of his engagement,

the Tribunal shall, on application made by the mine worker or his personal representatives, refund to him or them an amount equal to the total amount of the mine worker's contributions to the Fund in respect of the period or periods during which he was engaged in those industries, together with interest thereon under subsection (6).

(2) Where a mine worker's engagement in the coal or oil shale mining industries has been terminated otherwise than by reason of his death, no refund shall be made under this section consequent upon that termination of his engagement unless—

- (a) he or, if the Tribunal is satisfied that he, being alive, is unable for any reason to do so, some other person on his behalf, makes application therefor within the period of one year after that termination; or
- (b) if he dies within that period without any application having been made therefor under paragraph (a)—his personal representatives make application therefor within the period of one year after his death.

(3) Where a mine worker's engagement in the coal or oil shale mining industries has been terminated by reason of his death, no refund shall be made under this

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

section consequent upon that termination of his engagement unless his personal representatives make application therefor within the period of one year after his death.

(4) Any period during which a person was engaged in the coal or oil shale mining industries shall be disregarded for the purposes of subsection (1) if a pension or lump sum benefit payment is payable under this Act after the termination of his engagement in those industries by reference to that period.

(5) Where a refund of a mine worker's contributions paid to the Fund in respect of a period or periods is made under this section, the mine worker shall, for the purposes of Division 2 of Part II, be deemed to have been engaged, during that period or those periods, otherwise than in those industries.

(6) The interest payable on the amount of refunded contributions is the total of the interest payable, on the balance of the contributions as at 30th June in each year, at the rate per annum payable as at that date by the Commonwealth Savings Bank in respect of corresponding amounts in a savings account, but so that no interest on interest is payable.

19M. The reference in section 19L (1) to the total amount of a mine worker's contributions to the Fund is a reference to those contributions as reduced by such of the following amounts as may be applicable :—

Reduction
of amount
of refund
under
section
19L.

- (a) an amount equal to so much of his contributions to the Fund as were previously refunded to or in respect of him under this Part (excluding any of his contributions that have been repaid to the Fund, as referred to in section 10AA);

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) an amount equal to any contributions paid by him to the Fund in respect of any period before 25th May, 1971.

(34) Section 22—

After “pension”, insert “or a lump sum benefit payment”.

(35) (a) Section 25 (1)—

After “pension” where secondly occurring, insert “or any lump sum benefit payment or any part thereof”.

(b) Section 25 (1)—

After “pension” where fourthly occurring, insert “or lump sum benefit payment”.

(36) Section 27—

Omit the section, insert instead :—

Actuarial
investiga-
tion and
report.

27. (1) The Minister shall, from time to time, appoint an actuary for the purpose of making investigations and reports on the state, sufficiency, assets and liabilities of the Fund and the Subsidy Fund established under Part IVA.

(2) The Tribunal shall arrange for such an investigation and report to be made as at 26th March, 1979, and thereafter at intervals of not more than 3 years.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) Any such report shall—

- (a) contain an analysis of the assets and liabilities of the Fund and Subsidy Fund, and the sufficiency of the Fund having regard to the current and likely future level of contributions, pensions, additions to pensions, lump sum benefit payments and any other factors which the actuary or Tribunal considers relevant;
- (b) include recommendations as to any matters which are required to be the subject of such a recommendation; and
- (c) include recommendations as to such other matters as the actuary or Tribunal thinks proper.

(4) Any costs incurred in making an investigation or report under this section shall be paid from the Fund.

(37) Sections 28A, 28B—

After section 28, insert :—

28A. Orders under different provisions of this Act may be contained in the same instrument or in different instruments. ^{Orders generally.}

28B. Except where otherwise prescribed, a person is not eligible for benefits under both Division 2 and Division 3 of Part III in respect of the same period, or for 2 or more benefits under Division 3 of Part III in respect of the same period. ^{Double benefits.}

(38) Section 29—

After “pension” wherever occurring, insert “or lump sum benefit payment”.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(39) (a) Section 32 (2) (a), (b)—

Omit “or subsidies” wherever occurring, insert instead
“, subsidies or lump sum benefit payments”.

(b) Section 32 (2) (g)—

After section 32 (2) (f), insert :—

(g) require the production of information or records for the purposes of, or in connection with, any investigation or report under section 27.

(c) Section 32 (5)–(7)—

After section 32 (4), insert :—

(5) Subject to subsections (6) and (7), the power to make regulations under this Act extends to authorise the making of regulations whereby the provisions of this Act or of Schedule 2 to the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, or both, are deemed to be amended in the manner set forth in the regulations.

(6) Regulations shall not be made pursuant to subsection (5) unless the Minister is satisfied that, and certifies to the Governor that, the principles contained in the regulations have been agreed to by representatives of such of the following organisations as are in existence when the regulations are made, namely—

- (a) The New South Wales Combined Colliery Proprietors' Association.
- (b) The Australian Coal and Oil Shale Employees' Federation.
- (c) The Australian Collieries' Staff Association.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (d) The Amalgamated Metal Workers' and Shipwrights' Union.
- (e) The Electrical Trades Union of Australia.
- (f) The Federated Mining Mechanics' Association of Australasia.
- (g) The Federated Engine Drivers and Firemen's Association of Australasia.

(7) Regulations made pursuant to subsection (5)—

- (a) may only be made for or with respect to matters for or with respect to which this Act or Schedule 2 to the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act, 1978, makes provision;
- (b) may be made so as to take effect on and from 26th March, 1978, or a later date, notwithstanding that they are made or published in the Gazette after that date;
- (c) shall have no effect unless published in the Gazette on or before 2nd February, 1979;
- (d) shall, unless sooner revoked or otherwise ceasing to have effect, be deemed to be revoked on 15th April, 1979; and
- (e) shall have no effect in so far as they would, but for this paragraph, have the effect of amending (directly or indirectly) this subsection or subsections (5) or (6) or Part III.

*Coal and Oil Shale Mine Workers (Superannuation) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(40) Schedule 1—

Omit the Schedule to the Principal Act, insert instead :—

Secs. 10EA,
10F.

SCHEDULE 1.

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.
Item.	Class.	Description of person.	Amount of pension or addition: initial rate.	Amount of pension or addition: subsequent rate.
(1)	Mine worker (single man's rate).	A person who is in receipt of, or eligible to receive, a pension under section 6, 7 or 8 or who becomes eligible therefor, being a person who is not entitled under section 8A to a pension at the married man's rate.	\$ 70.05	\$ 20.75
(2)	Mine worker (married man's rate).	A person who is in receipt of, or eligible to receive, a pension under section 6, 7 or 8 or who becomes eligible therefor, being a person who is entitled under section 8A to a pension at the married man's rate.	100.05	17.85
(3)	Widow, etc.	A person who is in receipt of, or eligible to receive, a pension under section 10 (except subsection (1E)), whether by virtue of the operation of section 10A (1) or otherwise, or section 10A (except subsection (5)), or who becomes eligible therefor, not being a person referred to in Item (4).	60.05	10.75

*Coal and Oil Shale Mine Workers (Superannuation) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.
Item.	Class.	Description of person.	Amount of pension or addition: initial rate.	Amount of pension or addition: subsequent rate.
(4)	Child, etc.	A person— (a) who is in receipt of, or eligible to receive, an addition under section 9 (1) (b) or (d) or (2), (3), (4) or (6), or who becomes eligible therefor; or (b) who is in receipt of, or eligible to receive, a pension equal to an addition referred to in paragraph (a) by virtue of section 10 (1) or (1F) or who becomes eligible therefor.	\$ 10.00	\$ 10.00

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

Sec. 6.

SCHEDULE 2.

SAVINGS AND TRANSITIONAL PROVISIONS.

(1) The Minister, on the recommendation of the Superannuation Tribunal, shall, by an order published in the Gazette as soon as practicable after the date of assent to this Act, specify the weekly rate of wage payable for the classification of loaderman in an industrial award applying to the coal mining industry in New South Wales.

(2) An order under item (1) shall be deemed to have been made under section 2 (5) of the Principal Act, as amended by this Act, for the purposes of the definition of "Reference Rate" in section 2 (1) of that Act, and shall take effect or be deemed to have taken effect (as the case may require) on and from 26th March, 1978.

(3) Where an addition to a pension was payable, immediately before the commencement of this item, under section 9 (5) or (5A) of the Principal Act as in force before that commencement, the addition shall be deemed to have been awarded by the Superannuation Tribunal under section 9 (5) or (5A) (as the case may be) of that Act, as amended by this Act, unless the addition was revoked by the Tribunal with effect from that commencement.

(4) Any amounts paid before 26th March, 1978, under section 19 (4) of the Principal Act in respect of the year commencing on 1st July, 1977, shall be deemed to have been paid under section 19 (4) of the Principal Act, as amended by this Act.

(5) Nothing in this Act takes away the right to a pension under the Principal Act of a person who was in receipt of or eligible for the pension immediately before 26th March, 1978, but such a person shall be entitled thereto to in accordance with and at the rates prescribed by the Principal Act, as amended by this Act.

(6) Without affecting the generality of Division 2 of Part II of the Principal Act, as amended by this Act, where, but for this Act, a person in receipt of or eligible for an addition under section 9 (1) (a) or (c) of the Principal Act immediately before 26th March, 1978, would be entitled to the addition for any period commencing on 26th March, 1978, he is entitled instead to a pension at the married man's rate, as referred to in the Principal Act, as amended by this Act, in respect of that period.

Coal and Oil Shale Mine Workers (Superannuation) Amendment.

SCHEDULE 2—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(7) Notwithstanding the repeal by this Act of the provisions of section 9 (1) (a) and (c), (1A) and (1B) of the Principal Act, those provisions apply to and in respect of—

(a) the period commencing on 1st January, 1978, and ending on 25th March, 1978; and

(b) any previous period,

as if this Act had not been enacted, but as if the period referred to in paragraph (a) were a prescribed period within the meaning of section 9 (1A) of the Principal Act.

(8) Nothing in the Interpretation Act, 1897, requires an actuarial examination or report to be made under section 27 of the Principal Act after the repeal of that section by this Act.

(9) Section 10F of the Principal Act, as amended by this Act, shall, but only if the Minister so approves by instrument in writing, apply to and in respect of a variation of a kind referred to in that section and made before 26th March, 1978.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 22nd March, 1978.*

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