



Coal and Oil Shale Mine Workers' Superannuation Act 1989

Reprinted as in force on 18 March 2005

Reprint No. 2

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This Act is reprinted as at 18 March 2005. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

Replacement reprint date If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.



Queensland

Coal and Oil Shale Mine Workers' Superannuation Act 1989

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Coal and Oil Shale Mine Workers' Superannuation Act 1989

[as amended by all amendments that commenced on or before 18 March 2005]

An Act to provide for the superannuation fund contributions by employers and employees in the coal and oil shale mining industries

Part 1 Preliminary

1 Short title

This Act may be cited as the *Coal and Oil Shale Mine Workers' Superannuation Act 1989*.

2 Definitions

In this Act—

merger day means the day the Queensland Coal and Oil Shale Mining Industry Superannuation Fund merges with another fund to form AUSCOAL Superannuation Fund.

mine means a coal or oil shale mine.

mine worker see section 3.

owner, of a mine—

- (a) means a person who is the proprietor, lessee or occupier of a mine or any part of a mine but does not include—
 - (i) a person who merely receives a royalty, rent or fine from the mine; or
 - (ii) the proprietor of a mine that is subject to a lease, grant or licence to another person for working the mine; or

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- (iii) a person who is merely the owner of the soil and has no interest in the coal or oil shale of the mine; and
- (b) includes the holder of an exploration permit for coal under the *Mineral Resources Act 1989*.

superannuation fund means—

- (a) until the merger day—the Queensland Coal and Oil Shale Mining Industry Superannuation Fund; or
- (b) on and from the merger day—AUSCOAL Superannuation Fund.

trustee means the trustee of the superannuation fund.

3 **Meaning of *mine worker***

- (1) The following persons are mine workers—
 - (a) a person employed, whether underground or above ground, in or about a mine by the owner of the mine;
 - (b) a person employed by the owner of a mine principally to transport coal or oil shale from the mine to a railway line, wharf, processing works or other point of delivery;
 - (c) an elected official of an employee organisation of which the majority of members are mine workers;
 - (d) a superintendent, manager or under manager of a mine;
 - (e) a person (***person A***) employed by the owner of a mine in a capacity only indirectly connected with the working of the mine or only on a part-time or casual basis if—
 - (i) appropriate contributions have been made to the superannuation fund by and for person A and the trustee has not decided that person A is not a mine worker for the purposes of this Act; or
 - (ii) the trustee is satisfied person A is a mine worker for the purposes of this Act;
 - (f) a coke worker employed in or about a mine by the owner of the mine;

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- (g) a superintendent or an instructor of a mines rescue brigade.
- (2) A person is taken to be a mine worker if—
- (a) the person is a member of a partnership that is the owner of a mine; and
 - (b) the person works, whether underground or above ground, in or about the mine; and
 - (c) the person would be a mine worker under subsection (1) if the person were employed by the partnership.
- (3) Also, a person (*person B*) is taken to be a mine worker if—
- (a) another person (a *contractor*), carries out work in connection with the mine under an agreement between the contractor and the owner; and
 - (b) person B is employed by the contractor, whether underground or above ground, in or about the mine under either of the following awards to which the contractor is a respondent—
 - (i) the Coal Mining Industry (Production and Engineering) Consolidated Award 1997;
 - (ii) the Coal Mining Industry (Staff) Award, 2004; and
 - (c) person B would be a mine worker under subsection (1) if person B carried out the same duties or performed the same work as an employee of the owner.
- (4) Also, a person (*person C*) is taken to be a mine worker if—
- (a) a further person (a *subcontractor*), carries out work in connection with the mine under an agreement between the subcontractor and the contractor; and
 - (b) person C is employed by the subcontractor, whether underground or above ground, in or about the mine under either of the following awards to which the subcontractor is a respondent—
 - (i) the Coal Mining Industry (Production and Engineering) Consolidated Award 1997;
 - (ii) the Coal Mining Industry (Staff) Award, 2004; and

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- (c) person C would be a mine worker under subsection (1) if person C carried out the same duties or performed the same work as an employee of the owner.

Part 2 Contributions

4 Contributions to superannuation fund

- (1) For each pay period for each mine worker, the following persons must make contributions to the superannuation fund at the rates stated—
- (a) the mine worker, at the rate of 2.5% of the award wage for a coalcutting machineman under the Coal Mining Industry (Production and Engineering) Consolidated Award 1997 (the *award wage*);
 - (b) the mine worker's employer, at the rate of 7.5% of the award wage.

Maximum penalty for subsection (1)(b)—20 penalty units.

- (2) The following persons are employers for the class of mine worker stated in the section mentioned—
- (a) section 3(1)(a), (b), (d), (e) and (f)—the owner of the mine;
 - (b) section 3(1)(c)—the employee organisation;
 - (c) section 3(1)(g)—the mines rescue brigade;
 - (d) section 3(2)—the partnership;
 - (e) section 3(3)—the contractor;
 - (f) section 3(4)—the subcontractor.
- (3) Contributions to be made under subsection (1) must be made within 14 days after the end of the mine worker's pay period to which the contributions relate.
- (4) Contributions to be paid under subsection (1) that are not paid within the period specified in subsection (3) are a debt payable to the trustee.

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- (5) Subsection (1) does not apply when a mine worker is on unpaid leave.
- (6) In subsection (5)—
- unpaid leave*, for a mine worker, means leave during which the mine worker is, with the consent of the mine worker's employer, absent without remuneration from employment and includes parental leave, compassionate leave and special leave but does not include—
- (a) sick leave during which the mine worker receives salary, wages or other remuneration from the employer; or
- (b) leave during which the mine worker receives compensation under the *Workers' Compensation and Rehabilitation Act 2003*.

Part 3 Transitional provisions

Division 1 Transitional provision for Mining and Other Legislation Amendment Act 2000

5 Declaration about repealed s 3

- (1) Any obligation to pay contributions in relation to a mine worker, mentioned in section 3 repealed by section 6 of the *Mining and Other Legislation Amendment Act 2000*, never applied when the mine worker was on unpaid leave.
- (2) In subsection (1)—
- unpaid leave* has the same meaning as in section 4.

Division 2 **Transitional provision for Mineral
Resources and Other Legislation
Amendment Act 2005**

6 **References to superannuation fund from merger day until
the commencement**

- (1) This section applies if the merger day is earlier than the commencement of this section.
- (2) For the period starting on the merger day and ending immediately before the commencement, a reference in this Act to the superannuation fund is taken to have been a reference to AUSCOAL Superannuation Fund.

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 18 March 2005. Future amendments of the Coal and Oil Shale Mine Workers' Superannuation Act 1989 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

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3 Key

Key to abbreviations in list of legislation and annotations

| Key | Explanation | Key | Explanation |
|--------|--------------------------------|---------|---|
| AIA | = Acts Interpretation Act 1954 | (prev) | = previously |
| amd | = amended | proc | = proclamation |
| amdt | = amendment | prov | = provision |
| ch | = chapter | pt | = part |
| def | = definition | pubd | = published |
| div | = division | R[X] | = Reprint No.[X] |
| exp | = expires/expired | RA | = Reprints Act 1992 |
| gaz | = gazette | reloc | = relocated |
| hdg | = heading | renum | = renumbered |
| ins | = inserted | rep | = repealed |
| lap | = lapsed | (retro) | = retrospectively |
| notfd | = notified | rv | = revised edition |
| o in c | = order in council | s | = section |
| om | = omitted | sch | = schedule |
| orig | = original | sdiv | = subdivision |
| p | = page | SIA | = Statutory Instruments Act 1992 |
| para | = paragraph | SIR | = Statutory Instruments Regulation 2002 |
| prec | = preceding | SL | = subordinate legislation |
| pres | = present | sub | = substituted |
| prev | = previous | unnum | = unnumbered |

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

| Reprint No. | Amendments to | Effective | Reprint date |
|-------------|-----------------|-----------------|------------------|
| 1 | 1994 Act No. 29 | 1 July 1994 | 5 June 1996 |
| 1A | 1997 Act No. 62 | 5 December 1997 | 10 February 1998 |
| 1B | 2000 Act No. 18 | 8 June 2000 | 14 June 2000 |

| Reprint No. | Amendments included | Effective | Notes |
|-------------|---------------------|---------------|-----------------------|
| 1C | 2003 Act No. 27 | 1 July 2003 | |
| 1D | 2005 Act No. 8 | 18 March 2005 | R1D withdrawn, see R2 |
| 2 | — | 18 March 2005 | |

5 Tables in earlier reprints

| Name of table | Reprint No. |
|-----------------------------------|-------------|
| Corrected minor errors | 1 |
| Obsolete and redundant provisions | 1 |

6 List of legislation

Coal and Oil Shale Mine Workers' Superannuation Act 1989 No. 79

date of assent 18 September 1989

ss 1–2 commenced on date of assent

remaining provisions commenced 25 December 1989 (proc pubd gaz 23 December 1989 p 2712)

amending legislation—

Anti-Discrimination Amendment Act 1994 No. 29 ss 1–3 sch

date of assent 28 June 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1994 (see s 2)

Coal Legislation Amendment Act 1997 No. 62 pts 1, 3, s 13 sch

date of assent 5 November 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 5 December 1997 (1997 SL No. 419)

Mining and Other Legislation Amendment Act 2000 No. 18 pts 1–2

date of assent 8 June 2000

commenced on date of assent

Workers Compensation and Rehabilitation Act 2003 No. 27 ss 1–2(2), 622 sch 5

date of assent 23 May 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2003 (see s 2(2))

Mineral Resources and Other Legislation Amendment Act 2005 No. 8 pts 1, 4

date of assent 18 March 2005

commenced on date of assent

7 List of annotations

Title amd R1 (see s 3 and RA s 7(1)(k)); 2000 No. 18 s 3

PART 1—PRELIMINARY

pt hdg ins 2000 No. 18 s 4

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Definitions

- prov hdg** amd 1997 No. 62 s 13 sch
s 2 prev s 2 om R1 (see RA s 37)
 pres s 2 (prev s 4) renum 1997 No. 62 s 13 sch
 def “**contributor**” om 2000 No. 18 s 5(1)
 def “**existing pensioner**” om 2000 No. 18 s 5(1)
 def “**fund**” om 2000 No. 18 s 5(1)
 def “**merger day**” ins 2005 No. 8 s 50(2)
 def “**mine**” ins 2000 No. 18 s 5(2)
 def “**mine worker**” sub 2000 No. 18 s 5
 def “**owner**” ins 2000 No. 18 s 5(2)
 def “**previous Act**” om 2000 No. 18 s 5(1)
 def “**superannuation fund**” sub 2005 No. 8 s 50
 def “**tribunal**” om 2000 No. 18 s 5(1)

Meaning of “mine worker”

- s 3** prev s 3 om R1 (see RA s 40)
 pres s 3 (prev s 13) renum 1997 No. 62 s 13 sch
 sub 2000 No. 18 s 6
 amd 2005 No. 8 s 51

PART 2—CONTRIBUTORS

- pt hdg** ins 2000 No. 18 s 6

Contributions to superannuation fund

- prov hdg** amd 1997 No. 62 s 13 sch
s 4 def “**Minister**” om R1 (see RA s 39)
 prev s 4 renum (as s 2) 1997 No. 62 s 13 sch
 pres s 4 (prev s 16) renum 1997 No. 62 s 13 sch
 amd 1997 No. 62 s 13 sch
 sub 2000 No. 18 s 6
 def “**unpaid leave**” amd 2003 No. 27 s 622 sch 5

PART 3—TRANSITIONAL PROVISIONS

- pt hdg** ins 2000 No. 18 s 6
 sub 2005 No. 8 s 52

Division 1—Transitional provision for Mining and Other Legislation Amendment Act 2000

- div hdg** ins 2005 No. 8 s 52

Declaration about repealed s 3

- s 5** prev s 5 om 1997 No. 62 s 14
 pres s 5 (prev s 18) renum 1997 No. 62 s 13 sch
 sub 2000 No. 18 s 6

Division 2—Transitional provision for Mineral Resources and Other Legislation Amendment Act 2005

- div hdg** ins 2005 No. 8 s 53

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References to superannuation fund from merger day until the commencement

s 6 prev s 6 om 1997 No. 62 s 14
 pres s 6 ins 2005 No. 8 s 53

Transfer of assets and liabilities

s 7 om 1997 No. 62 s 14

Stamp duty not payable

s 8 om 1997 No. 62 s 14

Officers under previous Act

s 9 om 1997 No. 62 s 14

Records in respect of the fund

s 10 om 1997 No. 62 s 14

Payments from superannuation fund to contributors

s 11 om 1997 No. 62 s 14

Payments to existing pensioners and dependants

s 12 om 1997 No. 62 s 14

Contributions to superannuation fund

s 13 renum (as s 3) 1997 No. 62 s 13 sch

Employment after retirement age prohibited

s 14 om 1994 No. 29 s 3 sch

Powers of trustee

s 15 om 1997 No. 62 s 15

Unpaid contributions recoverable as a debt

s 16 renum 1997 No. 62 s 13 sch

Recovery of over payments of pensions and lump sum benefit payments

s 17 om 1997 No. 62 s 16

Offences

s 18 renum 1997 No. 62 s 13 sch

Transitional

s 19 om 1997 No. 62 s 17