

# COAL AND OIL SHALE MINE WORKERS' SUPERANNUATION ACT

No. 79 of 1989

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Queensland



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No. 79 of 1989

An Act to provide for the transfer of funds from The Coal Mine Workers' Pensions Fund to the Queensland Coal and Oil Shale Mining Industry Superannuation Fund and to amend the Coal and Oil Shale Mine Workers (Pensions) Act 1941-1989 in a certain particular

[ASSENTED TO 18TH SEPTEMBER, 1989]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

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

**2. Commencement.** (1) Section 1 and this section shall commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act shall commence on a date appointed by Proclamation.

The date so appointed is in this Act referred to as the commencement of this Act.

**3. Amendment of Act.** The *Coal and Oil Shale Mine Workers (Pensions) Act 1941-1989* is amended by inserting after section 1, the following section:—

“1A. **Application of this Act.** The provisions of this Act shall cease to apply on and from the commencement of the *Coal and Oil Shale Mine Workers' Superannuation Act 1989* except as provided for by that Act.”.

**4. Interpretation.** In this Act, unless the contrary intention appears—

“contributor” means a mine worker who prior to the commencement of this Act—

- (a) has contributed to the Fund;
- (b) has not had all of his contributions to the Fund refunded; and
- (c) has not received a pension, lump sum benefit or lump sum withdrawal payment under the previous Act except where that mine worker has subsequently contributed to the Fund;

“existing pensioner” means a person who at the commencement of this Act is receiving or is entitled to receive a pension under the previous Act;

“Fund” means The Coal Mine Workers' Pensions Fund under the previous Act;

“mine worker” has the meaning ascribed to it under the previous Act;

“Minister” includes any person for the time being performing the duties of the Minister;

“previous Act” means the *Coal and Oil Shale Mine Workers (Pensions) Act 1941-1989*;

“Superannuation Fund” means the Queensland Coal and Oil Shale Mining Industry Superannuation Fund;

“Tribunal” has the meaning ascribed to it under the previous Act;

“Trustee” means the trustee of the Superannuation Fund.

**5. Continuation of Tribunal and Fund.** The Tribunal and the Fund shall continue in existence only for the purposes of the transfers referred to in sections 6 and 7 and shall cease to exist immediately such transfers are effected.

**6. Transfer of Fund.** (1) Upon the commencement of this Act the Tribunal shall forthwith transfer all moneys held in the Fund to the Trustee.

(2) Prior to such transfer the Tribunal shall have regard to a recommendation from the State Actuary in relation to the amount that is to be transferred to the Superannuation Fund—

(a) in respect of contributors to the Fund;  
and

(b) to enable the continued payment of benefits in respect of existing pensioners and their dependants.

(3) When transferring the moneys referred to in subsection (1) the Tribunal shall provide the information referred to in subsection (2) and the Trustee shall credit the moneys to the Superannuation Fund in accordance with this information.

**7. Transfer of assets and liabilities.** Upon the commencement of this Act—

(a) the assets of the Tribunal (except for the records referred to in section 10) shall vest in the Trustee;  
and

(b) all liabilities or claims on the Tribunal or the Fund controlled by it under the previous Act shall become the liabilities of the Trustee or claims on the Superannuation Fund to the exclusion of the Tribunal and the Fund.

**8. Stamp duty not payable.** Stamp duty or other charges under a law of the State shall not be payable in respect of any transfer or vesting referred to in sections 6 and 7 or on any instrument associated therewith.

**9. Officers under previous Act.** The positions held by the registrar, deputy registrar and other officers and employees appointed under section 15 of the previous Act shall (except for the purposes of the transfers referred to in sections 6 and 7) cease to exist and the appointees shall no longer hold those positions.

**10. Records in respect of the Fund.** Records which relate to the Fund but are also required by the Administrator of the Coal Mining Industry Long Service Leave Trust Fund may be retained by the Administrator of that fund who shall allow the Trustee reasonable access to such records for his purposes.

**11. Payments from Superannuation Fund to Contributors.** All payments to contributors after the commencement of this Act shall be

made by the Trustee from the Superannuation Fund in accordance with the trust deed governing that fund.

**12. Payments to existing pensioners and dependants.** (1) All payments to existing pensioners and their dependants shall be made by the Trustee from the Superannuation Fund in accordance with the relevant provisions of the previous Act.

(2) All other rights and obligations of existing pensioners and their dependants under the previous Act continue to apply.

**13. Contributions to Superannuation Fund.** Contributions shall be made to the Superannuation Fund or to such other superannuation funds as the Trustee may from time to time approve—

- (a) by each mine worker, in accordance with the obligation to contribute to the Fund under the previous Act at the rate per week (with fractions of a cent disregarded) of 2.5 per centum of the weekly award rate specified in section 18 (1) (b) of the previous Act;
- (b) by each owner, in accordance with the obligation to contribute to the Fund under the previous Act except that the amount shall be at the rate per week (with fractions of a cent disregarded) of 7.5 per centum of the weekly award rate specified in section 18 (1) (b) of the previous Act.

**14. Employment after retirement age prohibited.** The provisions of section 5 (1), 5 (2), 5 (4), 5 (5) and 5 (6) of the previous Act in respect of the retirement age of mine workers continue to apply.

**15. Powers of Trustee.** The Trustee shall have the powers previously exercised by the Tribunal as follows:—

- (a) the power to determine or give the opinion referred to in the definition of “mine worker” in section 2 of the previous Act;
- (b) the power to recognize a person as housekeeper or wife referred to in the definitions of “housekeeper” and “wife” respectively in section 2 of the previous Act;
- (c) the power to declare an operation to be a mining operation under section 2A (2) of the previous Act;
- (d) the power to suspend the operation of the provisions referred to in section 5 (4) of the previous Act and to exercise the other powers set out in that subsection;
- (e) the power to award an addition to a pension under section 8 of the previous Act;
- (f) the power to award a pension or an addition to a pension under section 9 of the previous Act;
- (g) the power to cancel a pension under section 10A of the previous Act;
- (h) the power to make the determination referred to in section 20 (3) of the previous Act;
- (i) the power to direct payment under section 21 of the previous Act;
- (j) any other power of the Tribunal which the Minister authorizes the Trustee to exercise for the proper functioning of this Act.

**16. Unpaid contributions recoverable as a debt.** (1) Any part or all of the contributions required to be paid under section 13 of this Act that is not paid within a reasonable time shall constitute a debt due and payable to the Trustee and shall be recoverable by it in any Court of competent jurisdiction.

(2) If in any proceedings against any person for failure to pay any contribution under section 13 of this Act the defendant alleges that he is exempt from the obligation to pay the contribution, or that he has paid the contribution, the burden of proving such exemption or payment shall be on him.

**17. Recovery of over payments of pensions and lump sum benefit payments.** (1) Where it is found that any lump sum benefit payment or any part of any such payment or any pension or instalment of a pension which is not payable has been paid or that any sum paid by way of lump sum benefit payment or pension or instalment of pension is in excess of the amount so payable, the amount wrongly paid may be recovered as a debt due to the Trustee at its suit or, where it is practicable so to do, the Trustee may make any necessary adjustments in any instalments of the same or any other pension thereafter becoming payable.

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

**18. Offences.** A person who contravenes or fails to comply with any of the provisions of this Act or any of the provisions of the previous Act as applied by this Act shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding 20 penalty units and to a further penalty not exceeding 2 penalty units for every day during which the offence continues.

**19. Transitional.** If in any case in respect of the transition from the law in force before the commencement of this Act to the provisions of this Act it appears to the Minister that no provision or no sufficient provision is made to effect such transition, he may make a recommendation to the Governor in Council in relation to the provisions required and the Governor in Council may by Order in Council make such provisions with respect thereto providing for and supplying such omission or insufficiency, and such provisions shall have effect accordingly.