

Coal Industry Superannuation Amendment Bill 2013

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Western Australia

LEGISLATIVE ASSEMBLY

**Coal Industry Superannuation Amendment
Bill 2013**

A Bill for

An Act to amend the *Coal Industry Superannuation Act 1989*.

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This is the *Coal Industry Superannuation Amendment Act 2013*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) Part 2 — on the day after assent day;
- (c) Parts 3, 4 and 5 — on a day fixed by proclamation, and different days may be fixed for each Part.

3. Act amended

This Act amends the *Coal Industry Superannuation Act 1989*.

Part 2 — Immediate amendments

4. Section 3 amended

(1) In section 3(1) delete the definitions of:

employer

mine worker

(2) In section 3(1) insert in alphabetical order:

employer means a natural person, firm or body corporate that employs mine workers;

mine worker has the meaning given in section 4;

scheme means the superannuation scheme for mine workers constituted by this Act;

scheme benefits means the superannuation and related benefits to be paid under superannuation rules;

scheme contributions means the contributions payable or paid under superannuation rules;

successor fund has the meaning given in *Superannuation Industry (Supervision) Regulations 1994* (Commonwealth) regulation 1.03(1);

superannuation fund means a regulated superannuation fund within the meaning of the SIS Act section 19;

superannuation rules means rules made by regulations under section 7A(1);

5. Section 4 amended

(1) In section 4(1):

(a) in paragraph (a) delete “award or industrial agreement under the *Industrial Relations Act 1979* or the *Industrial Relations Act 1988* of the Commonwealth, other than a

s. 5

1 person who is for the time being excluded by a notice of
2 the Board under subsection (3);” and insert:

3

4 industrial instrument; or

5

6 (b) in paragraph (c)(i) delete “an industrial or trade union of
7 employees, or of an association of employees, registered
8 as an organisation within the meaning of the *Industrial
9 Relations Act 1988* of the Commonwealth, or under the
10 *Industrial Relations Act 1979*, of which union or
11 association the membership” and insert:

12

13 a registered organisation, the membership of which

14

15 (c) in paragraph (c)(ii) delete “in the opinion of the Board”;

16 (d) in paragraph (d) delete “who, in the opinion of the
17 Board,” and insert:

18

19 who

20

21 (2) In section 4(1):

22 (a) after each of paragraphs (b) and (c) insert:

23

24 or

25

26 (b) after paragraph (d) delete “and” and insert:

27

28 or

29

1 (3) In section 4(2) delete “order published in the *Gazette*” and
2 insert:

3

4 regulations

5

6 (4) Delete section 4(3) to (6) and insert:

7

8 (3) In this section —

9 ***industrial instrument*** means any of the following —

- 10 (a) an award, industrial agreement or order made
11 under the *Industrial Relations Act 1979*;
- 12 (b) an award, determination, enterprise agreement
13 or order made under the *Fair Work Act 2009*
14 (Commonwealth);
- 15 (c) an award, determination or agreement given
16 continuing effect under the *Fair Work*
17 *(Transitional Provisions and Consequential*
18 *Amendments) Act 2009* (Commonwealth);
- 19 (d) an award, agreement, determination, order or
20 similar instrument which is made under a law
21 of the State or the Commonwealth dealing with
22 workplace relations and which is prescribed for
23 the purposes of this definition;

24 ***registered organisation*** means any of the following —

- 25 (a) an association of employees, or an enterprise
26 association, registered as an organisation under
27 the *Fair Work (Registered Organisations)*
28 *Act 2009* (Commonwealth);
- 29 (b) an organisation of employees registered under
30 the *Industrial Relations Act 1979*;
- 31 (c) a like association or organisation which is
32 registered under a law of the State or the
33 Commonwealth dealing with workplace

s. 6

1 relations and which is prescribed for the
2 purposes of this definition.
3

4 **6. Part 2 inserted**

5 After section 4 insert:
6

7 **Part 2 — Superannuation for mine workers**

8 **7A. Superannuation rules**

- 9 (1) The Governor may, by regulations, make rules to
10 govern the scheme.
- 11 (2) Rules made under subsection (1) are —
- 12 (a) to provide for mine workers to become
13 members of the scheme, for different categories
14 of membership and for admission to,
15 continuation of and cessation of membership;
16 and
- 17 (b) to require employers to participate in the
18 scheme and to provide for admission to,
19 continuation of and cessation of participation;
20 and
- 21 (c) to specify superannuation and related benefits
22 to be paid to or in respect of members of the
23 scheme; and
- 24 (d) to provide for the protection, adjustment,
25 reduction, forfeiture and application of the
26 scheme benefits; and
- 27 (e) to require members and employers to pay
28 contributions towards the scheme benefits, and
29 to specify the amount or rate of contributions to
30 be paid by members and employers
31 respectively, or procedures by which the

1 amount or rate of such contributions is to be
2 determined.

3 (3) Rules made under subsection (1) may include any
4 provision necessary or convenient for consistency with
5 the SIS Act.

6 **7B. Designated fund**

7 (1) The Governor may, by regulations —

8 (a) designate a superannuation fund as the fund to
9 which the scheme contributions are to be paid
10 and through which the scheme benefits are to
11 be provided; and

12 (b) revoke a designation made under paragraph (a).

13 (2) Regulations may not designate a superannuation fund
14 under subsection (1)(a) unless the Minister is satisfied
15 that —

16 (a) the governing rules of the superannuation fund
17 will, if the superannuation fund is designated,
18 so far as the SIS Act permits —

19 (i) entitle members and employers to
20 participate in and pay scheme
21 contributions to the superannuation
22 fund; and

23 (ii) require the trustee of the superannuation
24 fund to provide the scheme benefits;

25 and

26 (b) the superannuation fund will, with respect to
27 each member, be a successor fund in relation to
28 a transfer of benefits from the superannuation
29 fund through which, immediately before the
30 designation, the scheme benefits are provided.

31 (3) Regulations may not revoke the designation of a
32 superannuation fund under subsection (1)(b) unless

s. 7

1 they also designate another superannuation fund under
2 subsection (1)(a) with effect from the revocation.

3 (4) Regulations made under subsection (1) may include
4 any provision necessary or convenient for consistency
5 with the SIS Act.
6

7 **7. Section 10B deleted**

8 Delete section 10B.

9 **8. Part 5 deleted**

10 Delete Part 5.

11 **9. Schedule 3 deleted**

12 Delete Schedule 3.

1 **Part 3 — Amendments when superannuation**
2 **rules made**

3 **10. Section 9 amended**

4 (1) Delete section 9(1a), (1b) and (1c) and insert:
5

6 (2A) Members of the scheme are members of the Fund.
7

8 (2) In section 9(2) delete paragraph (a) and insert:
9

10 (a) scheme contributions paid at a time when no
11 superannuation fund is designated under
12 section 7B(1); and
13

14 (3) In section 9(3):

15 (a) delete “for the payment of —” and insert:
16

17 for —
18

19 (b) delete paragraph (a) and insert:
20

21 (a) the payment of the scheme benefits; and
22

23 (c) delete paragraph (b);

24 (d) in paragraph (c) before “the costs” insert:
25

26 the payment of
27

s. 11

- 1 (e) in paragraph (c) delete “Schedule 2;” and insert:
2
3 Schedule 2; and
4
5 (f) in paragraph (d) before “allowances” insert:
6
7 the payment of
8
9 (g) in paragraph (e) before “the costs” insert:
10
11 the payment of
12
13 (h) in paragraph (e) delete “to the Fund.” and insert:
14
15 to the Fund; and
16
17 (i) after paragraph (e) insert:
18
19 (f) the transfer of benefits in respect of members of
20 the Fund, subject to and in accordance with the
21 SIS Act.
22
- 23 (4) In section 9(2) after each of paragraphs (b) and (c) insert:
24
25 and
26
- 27 **11. Section 28 amended**
- 28 (1) In section 28(1) delete “Fund” (each occurrence) and insert:
29
30 scheme
31

- 1 (2) In section 28(2):
2 (a) delete “this Act” (second occurrence) and insert:
3
4 the scheme
5
6 (b) delete “Fund” and insert:
7
8 scheme
9

10 **12. Section 29 amended**

- 11 (1) In section 29(1) delete “Fund” and insert:
12
13 scheme
14

- 15 (2) In section 29(2):
16 (a) delete “Fund” and insert:
17
18 scheme
19
20 (b) delete “this Act” and insert:
21
22 the scheme
23

24 **13. Section 31 amended**

- 25 (1) Delete section 31(a), (b), (c), (d) and (e).
26 (2) In section 31(l) delete “to achieve compliance” and insert:
27
28 or convenient for consistency
29

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Part 3 Amendments when superannuation rules made

s. 14

1 **14. Schedule 1 deleted**

2 Delete Schedule 1.

Part 4 — Amendments when benefits transferred

15. Sections 28A and 28B inserted

At the end of Part 3 insert:

28A. Winding up of Fund

(1) In this section —

fund transfer day means the day on which the first regulations made under section 7B come into operation;

successor trustee means the trustee of the superannuation fund designated by the first regulations made under section 7B.

(2) On the fund transfer day the Board is to transfer the scheme benefits to the successor trustee in accordance with the SIS Act.

(3) From the fund transfer day —

(a) the Board is to accept no scheme contributions accruing due after, or calculated in respect of a period of service completed after, the fund transfer day; and

(b) no entitlement to scheme benefits arises against the Board or the Fund in respect of any period of service or membership after, or in respect of any death or disablement occurring after, the fund transfer day.

(4) As soon as reasonably practicable after the fund transfer day, the Board is to wind up the Fund by —

(a) delivering to the successor trustee all records and information in the possession or under the control of the Board which the successor trustee requires for the operation of the scheme; and

s. 16

- 1 (b) transferring the assets of the Fund to the
2 successor trustee in accordance with the SIS
3 Act; and
4 (c) completing all outstanding returns, reports and
5 accounts required under this Act or under the
6 SIS Act in relation to the Fund or the Board;
7 and
8 (d) delivering to the Director of State Records all
9 records and information in its possession or
10 under its control which it has not delivered to
11 the successor trustee.

12 **28B. Notification following winding up**

13 As soon as reasonably practical after the Board is
14 satisfied that the winding up of the Fund under
15 section 28A is completed, it is to notify the Minister
16 that the winding up is complete.
17

18 **16. Section 32 amended**

19 (1) Delete section 32(1) and insert:
20

- 21 (1) As soon as is reasonably practicable after the
22 3rd anniversary of the day on which the first regulations
23 made under section 7B come into operation, the
24 Treasurer is to carry out a review of the operation of
25 this Act and, in the course of the review, is to consider
26 and have regard to —
27 (a) the requirement for employers to pay
28 contributions towards the scheme benefits; and
29 (b) such other matters as appear to the Treasurer to
30 be relevant to the operation and effectiveness of
31 this Act.
32

1 (2) In section 32(2) delete “Minister” and insert:

2

3 Treasurer

4

1 **Part 5 — Amendments following winding up**

2 **17. Section 3 amended**

3 (1) In section 3(1) delete the definitions of:

4 *Administration Manager*

5 *Board*

6 *Commissioner*

7 *delegate*

8 *Fund*

9 *investment manager*

10 *officer*

11 *property*

12 *the actuary*

13 (2) In section 3(1) in the definition of *superannuation rules* delete
14 “section 7A(1);” and insert:

15

16 section 7A(1).

17

18 **18. Part 3 deleted**

19 Delete Part 3.

20 **19. Sections 29A and 30 deleted**

21 Delete sections 29A and 30.

22 **20. Section 31 amended**

23 Delete section 31(f), (g), (ga) and (h).

1 **21. Schedule 2 deleted**

2 Delete Schedule 2.

3

