

**MINE SUBSIDENCE COMPENSATION
(AMENDMENT) ACT.**

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 71, 1969.

An Act to make further provision with respect to the payment of compensation for damage caused by subsidence due to the extraction of coal or shale and to make provision with respect to the prevention and mitigation of such damage; to validate certain matters; for these and other purposes to amend the Mine Subsidence Compensation Act, 1961; and for purposes connected therewith. [Assented to, 27th November, 1969.]

BE

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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
and com-
mencement.

1. (1) This Act may be cited as the "Mine Subsidence Compensation (Amendment) Act, 1969".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment
of Act No.
22, 1961.

2. The Mine Subsidence Compensation Act, 1961, is amended—

Sec. 10.
(Mine
Subsidence
Compensa-
tion Fund.)

(a) (i) by inserting in paragraph (a) of subsection three of section ten after the word "subsidence" the words "or payable under section 12A of this Act";

(ii) by inserting next after the same paragraph the following new paragraph:—

(a1) moneys expended by the Board in the exercise of its powers under section 13A or 13B of this Act;

Sec. 12.
(Claims for
damage
arising out
of sub-
sidence.)

(b) by inserting next after subsection one of section twelve the following new subsection:—

(1A) Notwithstanding anything contained in subsection one or two of this section, or section 12A of this Act, or any approval given under section fifteen of this Act, where—

(a) improvements used in connection with the carrying on of an extractive industry or operation were damaged by subsidence before, or are so damaged after, the commencement of the Mine Subsidence Compensation (Amendment) Act, 1969; or

(b)

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- (b) expense referred to in paragraph (b) of No. 71, 1969 subsection one of section 12A of this Act was incurred before that commencement, or is incurred or proposed, in relation to any such improvements,

the Board may refuse to entertain a claim, or make a payment, in respect of that damage or expense where it is satisfied that the cause of the subsidence that caused the damage or necessitated the expense was the carrying on of that industry or operation.

- (c) by inserting next after the same section the following New sec. 12A. new section :—

12A. (1) Subject to this section, claims may be made under this Act for payment from the Fund Claims arising out of actions to prevent or mitigate damage. of—

- (a) compensation for damage incurred as a result of the exercise by the Board of its powers under section 13A of this Act; and
- (b) an amount to meet the proper and necessary expense incurred or proposed by or on behalf of the owner of improvements (other than buildings or works used in connection with the winning of coal or shale) in preventing or mitigating damage to those improvements that, in the opinion of the Board, the owner could reasonably have anticipated would otherwise have arisen, or could reasonably anticipate would otherwise arise, from a subsidence that has taken place.

(2) A claim under subsection one of this section—

- (a) shall be made, in the case of a claim for compensation under paragraph (a) of that subsection, within three months after the day on which the extent of the damage to which

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which the claim relates became apparent to the claimant or, where some other time within which such a claim may be made is prescribed by the regulations, within the time so prescribed;

- (b) shall be made, in the case of a claim for payment of an amount under paragraph (b) of that subsection, within three months after the day on which the expense to which the claim relates became known to the claimant or, where some other time within which such a claim may be made is prescribed by the regulations, within the time so prescribed;
- (c) shall specify the location of the land or improvements to which the claim relates, the amount claimed, the nature and extent of the damage or, as the case may be, the matters in respect of which the expense was, or is to be, incurred; and
- (d) shall contain such other particulars as may be prescribed.

(3) The provisions of paragraph (b) of subsection two, and the provisions of subsections four and five, of section twelve, of this Act shall, *mutatis mutandis*, apply to and in respect of claims and payments under this section in the same manner as they apply to and in respect of notifications and payments under that section.

(4) In the case of a claim for payment of an amount under paragraph (b) of subsection one of this section, the Board's decision as to whether damage could reasonably have been, or be, anticipated shall be final.

(d)

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- (d) (i) by inserting in subsection one of section No. 71, 1969
thirteen after the word "twelve" the words
", or paragraph (a) of subsection one of
section 12A,"; Sec. 13.
(Purchase
of damaged
improve-
ments and
effecting
of remedial
works by
Board.)
- (ii) by omitting from paragraph (a) of subsection
one of the same section the words "improve-
ments damaged by subsidence" and by
inserting in lieu thereof the words "land or
improvements to which the claim relates";
- (iii) by omitting from the same paragraph the word
"improvements" where secondly occurring and
by inserting in lieu thereof the words "land, or
the improvements";
- (iv) by inserting in the same paragraph next after
the word "erected" the words ", or any estate
or interest therein,";
- (v) by omitting from the same paragraph the
word "improvements" where fourthly occur-
ring and by inserting in lieu thereof the words
"land, or the improvements";
- (vi) by inserting in the same paragraph after the
word "land" where secondly occurring the
words ", or the estate or interest therein, as
the case may require";
- (vii) by omitting from the same paragraph the words
"such subsidence" and by inserting in lieu
thereof the words "subsidence or by works to
prevent or mitigate any such damage";
- (viii) by omitting from paragraph (b) of the same
subsection the word "improvements" wherever
occurring and by inserting in lieu thereof the
words "land or improvements";

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- (ix) by inserting in subsection (1A) of the same section after the word "twelve" the words ", or paragraph (a) of subsection one of section 12A,";
- (x) by omitting from the same subsection the words "with the claimant in respect of damage to the improvements referred to in the claim";
- (xi) by omitting from the same subsection the words "on which the improvements are erected (together with the improvements)" and by inserting in lieu thereof the words ", land and improvements, or estate or interest,";
- (xii) by omitting from the same subsection the words "and improvements" and by inserting in lieu thereof the words ", land and improvements, or estate or interest,";

New secs.
13A and
13B.

- (e) by inserting next after section thirteen the following new sections : —

Works for
preven-
tion or
mitigation
of damage
from sub-
sidence.

13A. The Board may carry out, or cause to be carried out such works as, in its opinion, would reduce the total prospective liability of the Fund by preventing or mitigating damage that the Board anticipates would, but for those works, be incurred by reason of subsidence, whether or not the damage anticipated is damage to improvements on the land on which the works are to be carried out.

Acquisition
of land for
certain
works.

13B. The Board may acquire any land or any estate or interest in land for the purpose of exercising its powers under section 13A of this Act.

Sec. 16.
(Powers
of mem-
bers and
officers.)

- (f) (i) by inserting in subsection one of section sixteen after the word "subsidence" the words ", or to assess whether damage to any property from subsidence

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subsidence could reasonably have been, or be, No. 71, 1969
 anticipated and the nature and extent of any
 works necessary to prevent or mitigate any
 such damage or anticipated damage.”;

- (ii) by inserting next after the same subsection the following new subsections :—

(1A) Subject to subsections (1B) and (1C) of this section, the Board by its officers, servants and agents may, for the purpose of exercising the powers conferred upon it by section 13A of this Act, enter upon any land.

(1B) The powers conferred upon the Board by subsection (1A) of this section shall not authorise entry into a dwelling house without the consent of the occupier unless the anticipated damage is damage to that dwelling house.

(1C) Subject to subsection (1B) of this section, the powers conferred upon the Board by subsection (1A) of this section shall not be exercised unless—

- (a) the Board has given any occupier of the land reasonable notice of its intention to exercise those powers; and
- (b) the Board has, so far as may be practicable in the circumstances, given the like notice to any other person whose consent to the proposed entry and the carrying out of the proposed works would, but for subsection (1A) of this section, be required.

- (g) by omitting from subsection four of section 15B the words “of a a person” and by inserting in lieu thereof the words “of a person”. Statute
law
revision.

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No. 71, 1969 **3.** Anything done before the commencement of this Act
Validation. that would have been valid had the Mine Subsidence Com-
 pensation Act, 1961, as amended by this Act, been in force
 at the time that thing was done is hereby validated.

SUPERANNUATION