

1990 - No. 356

COAL OWNERSHIP (RESTITUTION) ACT 1990 - REGULATION

(Coal Ownership (Restitution) Regulation 1990)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Coal Ownership (Restitution) Act 1990, has been pleased to make the Regulation set forth hereunder.

NEIL PICKARD
Minister for Minerals and Energy.

Citation

1. This Regulation may be cited as the Coal Ownership (Restitution) Regulation 1990.

Definition

2. In this Regulation, “the Act” means the Coal Ownership (Restitution) Act 1990.

Application for restitution of ownership of coal

3. For the purposes of section 5 (2) (a) of the Act, an application for the restitution of the ownership of coal must:

- (a) be in writing signed by the applicant; and
- (b) be delivered, or sent by post, to the office of the Compensation Board in Sydney within 30 days from the date on which a notice of determination has, in respect of the claim made by the applicant in accordance with clause 17 of the Compensation

Arrangements, been served on the applicant by the Compensation Board.

Information to be contained in applications

4. For the purposes of section 5 (2) (b) of the Act, the information to be contained in the application is as follows:

- (a) the full name and residential address of the applicant;
- (b) a statement as to whether or not any dispute has arisen between the applicant and any other person, whether before, on or after 1 January 1982, in respect of:
 - (i) the coal to which the application relates; or
 - (ii) the land within which the coal is situated; or
 - (iii) any entitlement to compensation under the Compensation Arrangements; or
 - (iv) eligibility for restitution of ownership of the coal under the Act; and
- (c) if there is such a dispute - particulars of the dispute, including particulars sufficient to identify the other person.

Documents to accompany applications

5. For the purposes of section 5 (2) (c) of the Act, the prescribed documents that are required to accompany the application are documents (including any relevant will or letters of administration) which support the particulars referred to in clause 4 (c).

Procedure for determining applications

6. In determining an application under the Act:

- (a) the Compensation Board is not bound by the rules of evidence and may inform itself on any matter in such manner as it thinks fit and is to act according to equity, good conscience and the substantial merits of the application without regard to technicalities or legal forms; and
- (b) the Compensation Board, when considering the application for restitution of ownership of coal, must have regard to any other application which, in its opinion, might have some relevance to the outcome of the firstmentioned application.

Factors to be taken into account when determining applications

7. For the purposes of section 9 (2) (d) of the Act, the factors to be taken into account in determining an application for restitution of ownership of coal are as follows:

- (a) whether or not the coal was, immediately before 1 January 1982, subject to any trusts, leases, licences, obligations, estates, interests or contracts;
- (b) whether or not there exists a dispute of the kind referred to in clause 4 (b);
- (c) whether or not the coal was within a colliery holding at any time during the period beginning on 1 January 1982 and ending with 1 January 1986.

Title deed - restitution of coal ownership

8. As soon as practicable after the Minister has granted an application under the Act for the restitution of the ownership of coal, the Compensation Board must lodge with the Registrar-General, together with the appropriate fees:

- (a) a plan for deposit delineating the land within which the coal is located; and
- (b) an application under the Real Property Act 1900 for the creation, in respect of the coal, of a folio in the Register kept under that Act.

NOTE

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EXPLANATORY NOTE

The object of this Regulation is to supplement the provisions of the Coal Ownership (Restitution) Act 1990.

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The Regulation contains provisions dealing with the following matters:

- (a) citation and definition (clauses 1 and 2);
- (b) the manner in which an application for the restitution of the ownership of coal is to be made (clause 3);
- (c) the information to be contained in an application (clause 4);
- (d) the documents required to accompany an application (clause 5);
- (e) the procedure for determining an application (clause 6);
- (f) the factors to be taken into account in determining an application (clause 7);
- (g) the issue of a title deed in respect of the restitution of the ownership of coal (clause 8).
