

1995—No. 375

**COAL OWNERSHIP (RESTITUTION) ACT 1990—
REGULATION**

(Coal Ownership (Restitution) Regulation 1995)

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.

ROBERT MARTIN, M.P.,
Minister for Mineral Resources.

Citation

1. This Regulation may be cited as the Coal Ownership (Restitution) Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definitions

3. In this Regulation:

“**section 5 application**” means an application under section 5 of the Act for the restitution of ownership of coal;

“**the Act**” means the Coal Ownership (Restitution) Act 1990.

Applications for restitution of ownership of coal

4. (1) For the purposes of section 5 (2) (a) of the Act, a section 5 application:

(a) must be in writing signed by the applicant; and

(b) must be delivered, or sent by post, to the office of the Compensation Board in Sydney within 30 days from the relevant date or within such further period as the Board may allow.

(2) In this clause, “**the relevant date**” means the date of service on the applicant of a notice of determination of a claim made by the applicant under clause 17 of the Compensation Arrangements.

Information to be contained in applications

5. For the purposes of section 5 (2) (b) of the Act, the information to be contained in a section 5 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

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

Procedure for determining applications

7. (1) In determining a section 5 application, the Compensation Board:

- (a) is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit; and
- (b) is to act according to equity, good conscience and the substantial merits of the application without regard to technicalities or legal forms.

(2) When considering a section 5 application, the Compensation Board must have regard to any other section 5 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

8. The factors to be taken into account in determining a section 5 application are as follows:

- (a) whether or not the coal was subject to any trusts, leases, licences, obligations, estates, interests or contracts immediately before 1 January 1982;
- (b) whether or not there exists a dispute of the kind referred to in clause 5 (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 on 1 January 1986.

Title deed following restitution of coal ownership

9. As soon as practicable after the Minister grants a section 5 application, the Compensation Board must lodge with the Registrar-General, together with the appropriate fees:

- (a) a plan 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.

Repeal

10. (1) The Coal Ownership (Restitution) Regulation 1990 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Coal Ownership (Restitution) Regulation 1990, had effect under that Regulation continues to have effect under this Regulation.

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EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with no changes in substance, the provisions of the Coal Ownership (Restitution) Regulation 1990. The new Regulation deals with the procedures to be followed with respect to applications for the restitution of ownership of coal under the Coal Ownership (Restitution) Act 1990.

This Regulation comprises or relates to matters of a machinery nature.

This Regulation is made under the Coal Ownership (Restitution) Act 1990, including section 9 (the general regulation making power) and section 5.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
