

1995—No. 645

COAL ACQUISITION ACT 1981—INSTRUMENT

(Relating to the membership of the Compensation Board and
the Review Tribunal)

NEW SOUTH WALES



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A. M. GLEESON, Lieutenant-Governor.

I, the Honourable ANTHONY MURRAY GLEESON, A.C., Lieutenant-Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 6 of the Coal Acquisition Act 1981 and clause 33 of the Coal Acquisition (Compensation) Arrangements 1985, and all other powers enabling me in that behalf, make the arrangements set out in this instrument.

Signed at Sydney, this 25th day of October 1995.

By His Excellency's Command,

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

The Coal Acquisition (Compensation) Arrangements 1985 are amended:

(a) by omitting clause 4 (3)–(5) and by inserting instead the following subclauses:

(3) The Compensation Board is to consist of 5 part-time members appointed by the Governor on the nomination of the Minister.

(4) Of the members of the Board:

(a) one is, in and by the instrument by which the member is appointed, to be appointed as chairperson of the Compensation Board; and

- (b) one is to be a person employed in the Department of Mineral Resources; and
- (c) one is to be the Valuer-General or a member of the Valuer-General's staff (that is, a person employed as referred to in section 9 of the Valuation of Land Act 1916); and
- (d) two are to be persons who do not hold an office of profit under the Crown and who have such qualifications and experience as the Minister considers necessary or desirable for the purpose of enabling the Board to exercise its functions.

- (b) by omitting from clause 7 (2) the word "chairman" and by inserting instead the word "chairperson";
- (c) by omitting clause 26 (2)–(4) and by inserting instead the following subclauses:
 - (2) The Compensation Review Tribunal is to consist of 6 members appointed by the Governor.
 - (3) Of the members of the Tribunal:
 - (a) two are to be legal practitioners nominated by the Attorney General; and
 - (b) four are to be persons nominated by the Minister who have expertise in the coal industry.
 - (4) Of the members of the Tribunal referred to in subclause (3)
 - (a), one is to be appointed as chairperson of the Tribunal and the other is to be appointed as deputy chairperson of the Tribunal. Each such appointment is to be made in and by the instrument by which the member is appointed as a member.
- (d) by inserting after clause 26A the following clause:

Constitution of the Tribunal for an appeal

26B. (1) The Tribunal is, for the purpose of the hearing of an appeal, to be constituted by the chairperson or deputy chairperson of the Tribunal and any 2 of its other members. Alternatively, the Tribunal may be constituted by the chairperson, the deputy chairperson and any one of its other members.

(2) The chairperson of the Tribunal is to nominate the persons to constitute the Tribunal for the purposes of any particular hearing.

(3) More than one hearing may be conducted by the Tribunal at the same time (that is, one hearing can be conducted by the Tribunal constituted by the chairperson and 2 other members, and another hearing can be conducted by the Tribunal constituted by the deputy chairperson and 2 other members).

(e) by inserting after clause 33 the following clause:

Savings and transitional provisions

34. Schedule 4 has effect.

- (f) by omitting from clauses 1, 3 and 7 of Schedule 1, from clauses 1, 4 and 8 of Schedule 2 and from clauses 1-5 and 9A of Schedule 3 the word “chairman” or “Chairman” wherever occurring and by inserting instead the word “chairperson”;
- (g) by omitting from clause 3 (2) of Schedule 1 the word “part-time” wherever occurring;
- (h) by omitting clause 5 of Schedule 1;
- (i) by inserting after clause 1 of Schedule 3 the following clause:

Deputy chairperson has functions of chairperson

1A For the purposes of the hearing of an appeal when the chairperson is not one of the members constituting the Tribunal for that appeal, the deputy chairperson of the Tribunal has all the functions of the chairperson under this Schedule.

- (j) by insertin after Schedule 3 the following Schedule:

SCHEDULE 4—SAVINGS AND TRANSITIONAL PROVISIONS

(C1. 34)

Pending appeals to the Tribunal

1. For the purposes of enabling the Tribunal to continue to hear and determine appeals pending immediately before the commencement of this Schedule, the members of the Tribunal holding office immediately before that commencement continue to hold office, and the Tribunal continues to be constituted, in accordance with this instrument as in force immediately before that commencement.

EXPLANATORY NOTE

This instrument amends the arrangements under the Coal Acquisition Act 1981 that provide for the payment of compensation for coal acquired under that Act.

The objects of this instrument are as follows:

- (a) The membership of the Coal Compensation Board is changed so that it comprises 5 part-time members consisting of the chairperson, the Valuer-General or a member of the Valuer-General’s staff, an employee of the Department of Mineral Resources and 2 independent and appropriately

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qualified persons. At present the Board comprises 4 members consisting of a full-time chairman, a person employed in the Treasury, the Valuer-General or a member of the Valuer-General's staff and one independent person. The Board determines claims for compensation under the arrangements

- (b) The membership of the Compensation Review Tribunal is changed so that it comprises a chairperson and deputy chairperson (both of whom are legal practitioners nominated by the Attorney General) and 4 other members with expertise in the coal industry. For an appeal the Tribunal is to be constituted by 3 of its members of whom one must be the chairperson or deputy chairperson, or by the chairperson, deputy chairperson and one other member. At present the Tribunal consists of 3 members of whom one is a legal practitioner and 2 are persons with expertise in the coal industry. The Tribunal reviews the Board's decisions.
- (c) Consequential amendments are made and savings and transitional provisions are inserted.
