

**MINE SUBSIDENCE COMPENSATION (AMENDMENT) ACT,
1982, No. 12**

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 12, 1982.

An Act to amend the Mine Subsidence Compensation Act, 1961, with respect to offences under that Act and the production of books and documents, and in certain other respects. [Assented to, 13th April, 1982.]

Mine Subsidence Compensation (Amendment).

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.

1. This Act may be cited as the "Mine Subsidence Compensation (Amendment) Act, 1982".

Schedules.

2. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE MINE SUBSIDENCE COMPENSATION ACT, 1961.

SCHEDULE 2.—AMENDMENTS TO THE MINE SUBSIDENCE COMPENSATION ACT, 1961, BY WAY OF STATUTE LAW REVISION.

Amendment of Act No. 22, 1961.

3. The Mine Subsidence Compensation Act, 1961, is amended in the manner set forth in Schedules 1 and 2.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE MINE SUBSIDENCE COMPENSATION ACT, 1961.

(1) Section 11 (4)—

Omit "10 per centum", insert instead "15 per cent".

Mine Subsidence Compensation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE MINE SUBSIDENCE COMPENSATION ACT, 1961—
continued.

(2) Section 14A—

After section 14, insert:—

Recovery by Board in the case of unlawful mining operations.

14A. (1) In this section, “unlawful mining operations” means mining operations carried out by a person in contravention of—

- (a) section 130 of the Coal Mining Act, 1973; or
- (b) any enactment, covenant or stipulation by which the person is bound relating to the method or extent of the extraction of coal or shale.

(2) Where improvements are damaged by subsidence caused by unlawful mining operations—

- (a) any amount paid from the Fund to the owner of the improvements in respect of the damage under section 12 or in respect of the subsidence under section 12A (1) (b); or
- (b) the cost of the execution of any work in respect of the damage under section 13 (1) (b),

may be recovered in any court of competent jurisdiction as a debt due to the Board from the person who carried out the unlawful mining operations.

(3) Any money recovered by the Board pursuant to subsection (2) shall be paid into the Fund.

(3) (a) Section 15 (2)—

Omit the subsection.

Mine Subsidence Compensation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE MINE SUBSIDENCE COMPENSATION ACT, 1961—
continued.

(b) Section 15 (2A)—

After “approval”, insert “under this section”.

(c) Section 15 (5)—

Omit “or any conditions imposed by the Board pursuant to this section”.

(d) Section 15 (7), (8)—

Omit the subsections, insert instead:—

(7) A person contravenes this subsection if he does, or causes to be done, any work in connection with the erection or alteration of any improvement within a mine subsidence district without the approval of the Board or not in conformity with such an approval.

Penalty: \$2,000.

(8) A person contravenes this subsection if he subdivides any land within a mine subsidence district, or causes any such land to be subdivided, without the approval of the Board or not in conformity with such an approval.

Penalty: \$2,000.

(e) Section 15 (10)—

After section 15 (9), insert:—

(10) Proceedings for an offence under this section may be commenced at any time within 12 months after the offence was committed.

Mine Subsidence Compensation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE MINE SUBSIDENCE COMPENSATION ACT, 1961—
continued.

(4) Section 15B (5)—

After section 15B (4), insert:—

(5) If the Board refuses to issue a certificate under this section, it shall notify the applicant for the certificate of the refusal and the reasons therefor.

(5) (a) Section 16 (1D), (1E)—

After section 16 (1C), insert:—

(1D) A member of the Board or any officer or person employed by the Board may do both or either of the following things:—

- (a) he may enter any colliery holding at any reasonable time for the purposes of any inspection, examination or inquiry under this Act;
- (b) he may require the production of any books or documents which are—
 - (i) in the possession or under the control of the proprietor of a colliery holding or of the manager or any other person employed at or in connection with a mine; and
 - (ii) relevant to any inspection, examination or inquiry under this Act.

(1E) When books or documents are produced pursuant to a requirement under subsection (1D), the person to whom the books or documents are produced may make copies of, or take extracts from, the books or documents.

Mine Subsidence Compensation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE MINE SUBSIDENCE COMPENSATION ACT, 1961—
continued.

(b) Section 16 (2)—

Omit the subsection, insert instead:—

- (2) A person shall not, without reasonable excuse—
- (a) obstruct or hinder a person in the exercise of his powers under this Act;
 - (b) refuse or fail to comply with a requirement under subsection (1D); or
 - (c) refuse or fail to provide a person with all reasonable assistance and facilities in order to enable him to exercise his powers under this Act.

Penalty for contravention of this subsection: \$2,000.

(6) Section 17—

Omit the section, insert instead:—

Proceedings for offences, etc.

17. (1) Proceedings for an offence against this Act or the regulations may be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

(2) Any penalty recovered for an offence against this Act or the regulations shall be paid into the Fund.

Mine Subsidence Compensation (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE MINE SUBSIDENCE COMPENSATION ACT, 1961—
continued.****(7) Section 18 (1)—**

Omit “The regulations may prescribe a penalty not exceeding one hundred dollars for any breach thereof.”, insert instead:—

(1A) A regulation may impose a penalty not exceeding \$1,000 for any contravention thereof.

SCHEDULE 2.**(Sec. 3.)****AMENDMENTS TO THE MINE SUBSIDENCE COMPENSATION ACT, 1961, BY
WAY OF STATUTE LAW REVISION.****(1) Section 2 (2)—**

Omit “, as amended by subsequent Acts”.

(2) (a) Section 4, definition of “Colliery holding”—

Omit “Under Secretary for Mines”, insert instead “Secretary, Department of Mineral Resources”.

(b) Section 4, definition of “Colliery holding”—

Omit “, as amended by subsequent Acts”.

(c) Section 4, definition of “Prescribed”—

Omit the definition.

(d) Section 4, definition of “Subdivide” and “subdivision”—

Omit “, as amended by subsequent Acts”.

Mine Subsidence Compensation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE MINE SUBSIDENCE COMPENSATION ACT, 1961, BY
WAY OF STATUTE LAW REVISION—*continued.*

(3) (a) Section 5 (1)—

Omit “In the exercise”, insert instead “(1A) In the exercise”.

(b) Section 5 (2) (a)—

Omit “Under Secretary of the Department of Mines”, insert instead “Secretary, Department of Mineral Resources”.

(c) Section 5 (2)—

Omit “If no”, insert instead “(2A) If no”.

(d) Section 5 (2)—

Omit “subparagraph (i), (ii), (iii) or (iv) of paragraph (c)”, insert instead “subsection (2) (c) (i), (ii), (iii) or (iv)”.

(e) Section 5 (3)—

Omit the subsection, insert instead:—

(3) The provisions of the Public Service Act, 1979, do not apply to or in respect of the appointment of a member of the Board under subsection (2) (c) and any such member shall not, in his capacity as a member of the Board, be subject to the provisions of that Act.

(f) Section 5 (4), (8)—

Omit “paragraph (c) of subsection (2)” wherever occurring, insert instead “subsection (2) (c)”.

(4) (a) Section 6 (5)—

Omit “, as amended by subsequent Acts”.

Mine Subsidence Compensation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE MINE SUBSIDENCE COMPENSATION ACT, 1961, BY
WAY OF STATUTE LAW REVISION—*continued.*

- (b) Section 6 (5)—
Omit “Mines”, insert instead “Mineral Resources”.
- (5) (a) Section 7A (1) (a)—
After “section 12”, insert “or 12A”.
- (b) Section 7A (1) (b) (ii)—
Omit “subsection (1A) of section 15A”, insert instead “section 15A (1A)”.
- (6) Section 8—
Omit “, as amended by subsequent Acts” wherever occurring.
- (7) Section 9 (2)—
Omit “, or any Act amending the same”.
- (8) Section 10 (7), (8)—
Omit “-1957” wherever occurring.
- (9) Section 11 (3) (b), (6)—
Omit “, as amended by subsequent Acts” wherever occurring.
- (10) (a) Section 12 (1)—
Omit “-1957”.

Mine Subsidence Compensation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE MINE SUBSIDENCE COMPENSATION ACT, 1961, BY
WAY OF STATUTE LAW REVISION—*continued.*

(b) Section 12 (1A) (b)—

Omit “paragraph (b) of subsection (1) of section 12A”, insert instead “section 12A (1) (b)”.

(11) (a) Section 12A (2) (a)—

Omit “paragraph (a) of that subsection”, insert instead “subsection (1) (a)”.

(b) Section 12A (2) (b)—

Omit “paragraph (b) of that subsection”, insert instead “subsection (1) (b)”.

(c) Section 12A (3)—

Omit “paragraph (b) of subsection (2), and the provisions of subsections (4) and (5), of section 12,”, insert instead “section 12 (2) (b), (4) and (5)”.

(d) Section 12A (3)—

Omit “that section”, insert instead “section 12”.

(e) Section 12A (4)—

Omit “paragraph (b) of subsection (1)”, insert instead “subsection (1) (b)”.

(12) (a) Section 13 (1), (1A)—

Omit “, or paragraph (a) of subsection (1) of section 12A,” wherever occurring, insert instead “or 12A (1) (a)”.

Mine Subsidence Compensation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE MINE SUBSIDENCE COMPENSATION ACT, 1961, BY
WAY OF STATUTE LAW REVISION—*continued.*

(b) Section 13 (1A)—

Omit “paragraph (a) of subsection (1)” where secondly occurring, insert instead “subsection (1) (a)”.

(c) Section 13 (1A)—

Omit “, as amended by subsequent Acts” wherever occurring.

(d) Section 13 (1A)—

Omit “, as so amended,” wherever occurring.

(e) Section 13 (1A)—

Omit “, as so amended” where secondly occurring.

(13) Section 15 (4)—

Omit “, as amended by subsequent Acts”.

(14) Section 20—

Omit “paragraph (a) of subsection (1) of section 13”, insert instead “section 13 (1) (a)”.
