



New South Wales

Coal Acquisition Amendment Act 1997 No 22

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Coal Acquisition Amendment Act 1997 No 22

Act No 22, 1997

An Act to amend the *Coal Acquisition Act 1981* to provide for the revesting in the Crown of certain coal granted to eligible claimants under the *Coal Ownership (Restitution) Act 1990*, and to amend the *Coal Ownership (Restitution) Act 1990* to specify certain grounds on which applications for the granting of coal under that Act may be refused. [Assented to 24 June 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Coal Acquisition Amendment Act 1997*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Coal Acquisition Act 1981 No 109

The *Coal Acquisition Act 1981* is amended as set out in Schedule 1.

4 Amendment of Coal Ownership (Restitution) Act 1990 No 19

The *Coal Ownership (Restitution) Act 1990* is amended as set out in Schedule 2.

Schedule 1 Amendment of Coal Acquisition Act 1981

(Section 3)

[1] Long title

Insert “, and to provide for the revesting in the Crown of certain coal granted to eligible claimants under the *Coal Ownership (Restitution) Act 1990*” after “Crown”.

[2] Sections 5A and 5B

Insert after section 5:

5A Revesting in the Crown of coal granted under Coal Ownership (Restitution) Act 1990

- (1) This section applies to coal granted under the *Coal Ownership (Restitution) Act 1990*, whether granted before or after the commencement of this section.
- (2) On the recommendation of the Minister, the Governor may, by proclamation, declare that specified coal to which this section applies is vested in the Crown.
- (3) In deciding whether to make such a recommendation, the Minister may have regard to the revenue that would be likely to accrue to the Crown if the coal were vested in the Crown.
- (4) On the publication in the Gazette of a proclamation under this section, the coal specified in the proclamation is vested in the Crown freed and discharged from all trusts, leases, licences, obligations, estates, interests and contracts.
- (5) The reference in subsection (4) to leases does not include a reference to mining leases within the meaning of the *Mining Act 1992*.
- (6) This section expires at the end of 31 December 1998.

5B Acquisition of coal on behalf of the Crown otherwise than by revesting

- (1) This section applies to coal granted under the *Coal Ownership (Restitution) Act 1990*, whether granted before or after the commencement of this section.
- (2) The Minister may, on behalf of the Crown, acquire coal to which this section applies, whether by contract or other arrangement.
- (3) The acquisition of coal under this section may be made only on the recommendation of the New South Wales Coal Compensation Board established under the *Coal Acquisition (Compensation) Arrangements 1985*.
- (4) Such a recommendation must be made in accordance with any arrangements in force under section 6.

[3] Section 6 Arrangements by the Governor

Insert “by order” after “may” in section 6 (1).

[4] Section 6 (1), (2) and (3)

Omit “enactment of this Act” wherever occurring in section 6 (1), (2) and (3).
Insert instead “operation of section 5 or 5A”.

[5] Section 6 (3)

Omit “by the operation of section 5”.

[6] Section 6 (3)

Omit “commencement of this Act”.
Insert instead “commencement of section 5 or the publication of the relevant proclamation under section 5A, as the case requires”.

[7] Section 6 (5)–(8)

Insert after section 6 (4):

- (5) Arrangements under this section may also provide for:
 - (a) the basis on which any recommendation referred to in section 5B (3) is to be made, and
 - (b) the determination of the amount, and method of payment, of any consideration payable in respect of coal acquired under section 5B.
- (6) Arrangements under this section that, before the commencement of this subsection, were made otherwise than by order are taken always to have been made by order.
- (7) The amount of compensation payable under arrangements under this section must be just and equitable in so far as the compensation:
 - (a) results from the operation of section 5A, or
 - (b) relates to a refusal by the Minister to grant coal to an eligible applicant, after the commencement of this subsection, under the *Coal Ownership (Restitution) Act 1990*.

For the purposes of giving effect to paragraph (b) any existing determination of the compensation concerned is to be re-determined in accordance with this subsection.

- (8) It is the duty of the Minister:
 - (a) to ensure that the arrangements are reviewed as soon as practicable after the commencement of this subsection, and thereafter from time to time, for the purpose of ascertaining whether or not the arrangements comply with subsection (7), and
 - (b) to ensure that amendments to the arrangements are promoted, from time to time as necessary, to bring the arrangements into conformity with subsection (7).

Schedule 2 Amendment of Coal Ownership (Restitution) Act 1990

(Section 4)

[1] Section 3 Definitions

Omit “(published in Gazette No 95, dated 21 June 1985, at page 2879)” from the definition of *Compensation Arrangements*.

[2] Section 7 Decision of Minister not to be questioned except in limited circumstances

Insert after section 7 (1):

(1A) Without limiting subsection (1):

- (a) nothing in this Act, or any recommendation under this Act, requires the Minister to grant coal to eligible claimants, and
- (b) in particular, the Minister may refuse to grant coal to an eligible claimant if of the opinion that the Crown would lose significant revenue were the coal to cease to be vested in the Crown.

[Minister's second reading speech made in—
Legislative Council on 14 May 1997
Legislative Assembly on 27 May 1997]