



New South Wales

Coal Acquisition Amendment (Fair Compensation) Act 2005 No 24

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Coal Acquisition Amendment (Fair Compensation) Act 2005 No 24

Act No 24, 2005

An Act to amend the *Coal Acquisition Act 1981* to make further provision for the payment of compensation under that Act; and for other purposes. [Assented to 31 May 2005]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Coal Acquisition Amendment (Fair Compensation) Act 2005*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Amendment of Coal Acquisition Act 1981 No 109

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

Schedule 1 Amendments

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order:

Coal Compensation Board means the New South Wales Coal Compensation Board established under the *Coal Acquisition (Compensation) Arrangements 1985*.

[2] Section 5B Acquisition of coal on behalf of the Crown otherwise than by revesting

Omit “New South Wales Coal Compensation Board established under the *Coal Acquisition (Compensation) Arrangements 1985*” from section 5B (3).

Insert instead “Coal Compensation Board”.

[3] Section 6 Arrangements by the Governor

Insert “(taking into account section 6A)” after “subsection (1)” in section 6 (2).

[4] Section 6A

Insert after section 6:

6A Special provisions relating to compensation

- (1) Section 6, and any arrangements made under that section, are subject to the provisions of this section.
- (2) If royalty is to be included in the determination of compensation under section 6 in relation to any claim, the royalty is to be calculated in accordance with the provisions of the *Mining Act 1992* and the *Mining Regulation 2003* relating to the payment of royalty, as those provisions were in force immediately before 1 July 2004.
- (3) Despite subsection (2), the determination of compensation payable under section 6 in relation to any claim must not include an additional amount in respect of royalty under section 283 (1) (b) of the *Mining Act 1992* (or any provision of or made under the former *Coal Mining Act 1973* relating to the payment of additional royalty) unless the Coal Compensation Board considers it appropriate and the amount relates to a period occurring before 1 July 2004.

- (4) Any additional amount of royalty referred to in subsection (3) is to be calculated in accordance with the provisions of section 283 (1) (b) of the *Mining Act 1992*, and the relevant provisions of the *Mining Regulation 2003*, as in force immediately before 1 July 2004.
- (5) The determination of compensation payable under section 6 in relation to any claim must not include any amount in respect of any contract or other arrangement that:
 - (a) was entered into by an applicant or tenderer for, or the holder of, any lease, licence or other authorisation under the *Coal Mining Act 1973* (as in force before its repeal) or the *Mining Act 1992*, and
 - (b) was entered into for the purpose of fulfilling a requirement relating to the grant of the lease, licence or other authorisation or a condition of the lease, licence or other authorisation, and
 - (c) related to the price at which coal was to be supplied to another party to the contract or arrangement.
- (6) The provisions of this section extend to any compensation in relation to a claim that has not been finally determined at the commencement of this section, including a claim that is the subject of any appeal, judicial review or redetermination.
- (7) However, the provisions of this section:
 - (a) do not affect any payment of compensation under section 6 made before the commencement of this section if the payment was in respect of a claim that had been finally determined before that commencement, or
 - (b) do not entitle any person who has received a payment referred to in paragraph (a) in respect of a claim to any further payment of compensation under section 6 in respect of the claim.

- (8) The arrangements made under section 6 may (but need not) make provision with respect to the circumstances in which a claim is taken to have been finally determined for the purposes of this section.
- (9) In this section, a reference to a claim includes a reference to an application.

[Second reading speech made in—
Legislative Assembly on 6 April 2005
Legislative Council on 25 May 2005]

BY AUTHORITY