



New South Wales

Coal Acquisition (Compensation) Arrangements Amendment Order 2003

under the

Coal Acquisition Act 1981

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, 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*, make the following Order.

Dated, this 18th day of June 2003.

By Her Excellency's Command,

KERRY HICKEY, M.P.,
Minister for Mineral Resources

Explanatory note

The object of this Order is to make it clear that compensation can be paid in respect of the vesting of coal not within colliery holdings in the Crown by the operation of section 5 of the *Coal Acquisition Act 1981*.

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Clause 1 Coal Acquisition (Compensation) Arrangements Amendment Order 2003

**Coal Acquisition (Compensation) Arrangements
Amendment Order 2003**

1 Name of Order

This Order is the *Coal Acquisition (Compensation) Arrangements Amendment Order 2003*.

2 Amendment of Coal Acquisition (Compensation) Arrangements 1985

The *Coal Acquisition (Compensation) Arrangements 1985* are amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 2)

[1] Clause 3 Definitions

Insert “or purportedly made under clause 12 (as referred to in clause 9A (1) (b))” after “12” in the definition of *claim* in clause 3 (1).

[2] Clause 8 Compensation not payable except in accordance with the provisions of this instrument

Insert “or 9A (1)” after “clause 9 (1)” in clause 8 (1).

[3] Clause 9A

Insert after clause 9:

9A Compensation payable for claims in respect of coal not within colliery holding

- (1) This clause applies to a person:
 - (a) in whom saleable coal not within a colliery holding was vested immediately before the commencement of section 5 of the *Coal Acquisition Act 1981*, and
 - (b) who made, or purported to make, a claim under clause 12 before 7 July 1994 for compensation as a result of the operation of section 5 of the *Coal Acquisition Act 1981* in relation to some or all of that coal.
- (2) Compensation (together with interest calculated in accordance with clause 24) is payable to a person to whom this clause applies as a result of the operation of section 5 of the *Coal Acquisition Act 1981* in relation to saleable coal that is the subject of the claim referred to in subclause (1).
- (3) The amount of compensation payable is as follows:
 - (a) in a case where a determination was made by the Compensation Board after the commencement of section 5 of the *Coal Acquisition Act 1981* (but before

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Schedule 1

Amendments

the commencement of this clause) for the payment of compensation for the operation of that section in relation to some or all of the coal concerned:

- (i) except as provided by subparagraph (ii)—the amount that was determined by the Compensation Board, or
 - (ii) if that determination was or is subsequently varied on appeal or is required to be reduced under another provision of this instrument—the amount provided for in the determination as so varied or reduced,
- (b) in a case where the claim for that compensation has not been determined by the Board before the commencement of this clause—an amount determined in accordance with clause 22 (1A).
- (4) If a person has been paid an amount of compensation (whether as an interim or final payment) or interest by the Compensation Board before the commencement of this clause in respect of a claim referred to in subclause (1) and that amount is equal to or greater than the amount of compensation or interest payable in accordance with this clause, the person is not entitled to any further payment of compensation or interest.
- (5) Subclause (4) does not affect the operation of clause 17B.
- (6) This clause does not affect the operation of the provisions of the 1997 Compensation Arrangements.

[4] Clause 22 Determination of claims relating to clause 12

Insert after clause 22 (1):

- (1A) Where, in the case of a claim referred to in clause 9A (1) (b) that has not been determined before the commencement of this subclause, the Compensation Board is satisfied that:
- (a) the claimant is a person to whom clause 9A applies and has sustained pecuniary loss which is directly attributable to the vesting of coal in the Crown by virtue of the operation of section 5 of the *Coal Acquisition Act 1981*, and

(b) having regard to all the circumstances of the case, it would be just and equitable for the claimant to be paid compensation in respect of that loss,

the Board may determine an amount of compensation to be paid to the claimant, not exceeding the amount of that loss.

[5] Clause 22A Claims remitted to Compensation Board for reconsideration

Insert “or was originally purportedly made under clause 12 (as referred to in clause 9A (1) (b)),” after “12,” in clause 22A (4).