



New South Wales

Coal Mine Subsidence Compensation Regulation 2017

under the

Coal Mine Subsidence Compensation Act 2017

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Coal Mine Subsidence Compensation Act 2017*.

VICTOR DOMINELLO, MP
Minister for Finance, Services and Property

Explanatory note

The object of this Regulation is to make provision for certain matters under the *Coal Mine Subsidence Compensation Act 2017* consequent on the commencement of that Act. The Regulation:

- (a) excludes certain historical coal mining areas from the definition of “active coal mines” for the purposes of that Act, and
- (b) makes clear that bridges, weirs, tunnels and culverts are “infrastructure” for the purposes of that Act, and
- (c) deals with extensions of the time within which certain claims for compensation under that Act must be made, and
- (d) prescribes the persons who are to be “qualified valuers” for the purposes of that Act, and
- (e) requires the provision of reports by proprietors of active coal mines to the Chief Executive of Subsidence Advisory NSW about ground movement and ongoing subsidence, and
- (f) provides that functions of the Secretary of the Department of Finance, Services and Innovation under that Act may be delegated to a person who is a retired Supreme Court or District Court judge, and
- (g) prescribes certain offences under that Act and this Regulation as penalty notice offences and sets out the penalty notice amounts for those offences, and
- (h) contains other savings, transitional and machinery provisions.

This Regulation is made under the *Coal Mine Subsidence Compensation Act 2017*, including sections 4 (1) (definitions of *active coal mine* and *infrastructure*), 11 (4) and (5), 26 (7), 51 (1) (the general regulation-making power) and (2) (b), 52 (1) (b) and 57 of that Act and clause 1 (5) of Schedule 1 to that Act.

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Coal Mine Subsidence Compensation Regulation 2017

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Coal Mine Subsidence Compensation Act 2017

1 Name of Regulation

This Regulation is the *Coal Mine Subsidence Compensation Regulation 2017*.

2 Commencement

This Regulation commences on 1 January 2018 and is required to be published on the NSW legislation website.

3 Definition

(1) In this Regulation:

the Act means the *Coal Mine Subsidence Compensation Act 2017*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Meaning of “active coal mine”

(1) Exclusion of certain coal mines with historically inactive areas

A coal mine that is a colliery holding referred to in paragraph (a) of the definition of *active coal mine* in section 4 (1) of the Act is excluded from that definition if any part of the holding is shown hatched red and labelled “inactive underground coal mining” on the Active Coal Mines Map.

(2) Inclusion of certain coal mines (other than historically inactive areas)

A coal mine referred to in subclause (1) is prescribed for the purposes of paragraph (b) of the definition of *active coal mine* in section 4 (1) of the Act, but only in relation to land that is not shown hatched red and labelled “inactive underground coal mining” on the Active Coal Mines Map.

(3) In this clause:

Active Coal Mines Map means the Coal Mine Subsidence Compensation Act 2017—Active Coal Mines Map published in the Gazette on 8 December 2017.

authorisation means an authorisation under the *Mining Act 1992*.

mining lease means a mining lease under the *Mining Act 1992*.

5 Meaning of “infrastructure”

For the purposes of the definition of *infrastructure* in section 4 (1) of the Act, the following buildings and works are prescribed:

- (a) bridges,
- (b) weirs,
- (c) tunnels,

- (d) culverts.

6 Extension of time within which certain claims for compensation must be made

- (1) For the purposes of section 11 (4) of the Act, a claim for compensation for preventative or mitigative expenses under section 7 (2) (a) of the Act may, if the Chief Executive determines that special circumstances exist, be made within 6 months after the expense to which the claim relates became known to the claimant.
- (2) For the purposes of section 11 (5) of the Act, a claim for compensation for damage under section 7 (2) (b) of the Act incurred as a result of the exercise by the Chief Executive of powers under section 29 of the Act may, if the Chief Executive determines that special circumstances exist, be made within 6 months after the damage to which the claim relates became known to the claimant.

Note. The following are examples of special circumstances:

- (a) if the claimant was absent on an extended period of travel during the initial 3 month period,
- (b) if the claimant has experienced illness or death in their immediate family during the initial 3 month period,
- (c) if the claimant has suffered from a mental incapacity during the initial 3 month period.

7 Meaning of “qualified valuer”

For the purposes of the meaning of *qualified valuer* in section 26 (7) of the Act, the following classes of persons are prescribed:

- (a) the members of the Australian Valuers Institute (other than associate or student members),
- (b) the members of the Australian Property Institute (other than student or provisional members) who acquired membership in connection with their occupations as valuers,
- (c) the persons who hold membership of the Royal Institution of Chartered Surveyors as chartered valuers.

8 Provision of reports relating to ground movement and subsidence

The proprietor of an active coal mine must, at such times as are determined by the Chief Executive and notified to the proprietor, provide the Chief Executive with reports in relation to the coal mine, in the manner and form approved by the Chief Executive, on the following matters:

- (a) ground movement,
- (b) surveying data that indicates whether any subsidence is ongoing or complete.

Maximum penalty: 10 penalty units.

9 Delegation

For the purposes of section 52 (1) (b) of the Act, the Secretary may delegate functions under the Act to a person who is a retired Supreme Court or District Court judge.

Schedule 1 Penalty notice offences

For the purposes of section 57 of the Act:

- (a) each offence specified in this Schedule is an offence for which a penalty notice may be issued, and
- (b) the amount payable under any such penalty notice is the amount specified in this Schedule for the offence.

Column 1	Column 2	Column 3
Provision	Penalty for an individual	Penalty for a corporation
Offences under the Act		
Section 15 (6)	\$1,250	\$2,500
Section 21 (1) and (2)	\$750	\$1,500
Section 27 (2)	\$2,500	\$5,000
Section 50 (2)	\$750	\$1,500
Offences under this Regulation		
Clause 8	\$500	\$1,000

Schedule 2 Amendment of Coal Mine Subsidence Compensation Act 2017 No 37

[1] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 9:

- (2) The former Act continues to apply (as if it had not been repealed) to an application for an approval made under section 15 of the former Act, but not finally determined, before its repeal and for that purpose references in the former Act to the Mine Subsidence Board (once it is abolished) are taken to be references to the Chief Executive.

[2] Schedule 1, clause 14

Insert after clause 13:

14 Continuation for 12 months of provisions relating to certificates

Until the end of abolition day, sections 15B and 15C of the former Act continue in force as if those sections had not been repealed.