

**MINE SUBSIDENCE COMPENSATION (AMENDMENT) BILL
1989**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Mine Subsidence Compensation Act 1961 so as:

- (a) to extend the application of the Act by including in the definition of "subsidence" all related ground movements; and
- (b) to provide rights of appeal to the Land and Environment Court from certain decisions of the Mine Subsidence Compensation Board; and
- (c) to allow for the acquisition of, or for repair works in relation to, vacant land if the proposed erection of an improvement on that land is adversely affected by subsidence; and
- (d) to extend the compensation provisions to improvements or subdivisions that have met all requirements except prior approval; and
- (e) to make further provision for the control of unauthorised work on land or improvements by directions and restraining orders; and
- (f) to extend the provision of advice on matters related to mine subsidence beyond mine subsidence districts; and
- (g) to make other minor changes.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Mine Subsidence Compensation Act 1961.

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Clause 4 is a formal provision that gives effect to the Schedule of amendments to the Land and Environment Court Act 1979.

SCHEDULE 1 - AMENDMENT OF MINE SUBSIDENCE COMPENSATION ACT 1961

Schedule 1 (1) extends the definition of "subsidence" to include all ground movements related to the extraction of, or prospecting for, coal or shale.

Schedule 1 (2) makes amendments by way of statute law revision.

Schedule 1 (5) provides appeal rights for claimants to the Land and Environment Court in respect of decisions of the Board as to whether damage for which compensation is claimed has arisen from subsidence or could reasonably have been anticipated. At present an appeal lies only in respect of a decision of the Board as to the amount of compensation to be paid. **Schedule 1 (3) and (4)** make consequential amendments.

Schedule 1 (6) allows the Board a discretion to pay to the owner of land or improvements reasonable incidental expenses incurred by the owner in connection with the sale of the land or improvements to the Board.

Schedule 1 (7) enables the Board to acquire vacant land, or to carry out repair works in relation to vacant land, if the proposed erection of an improvement on that land is adversely affected by subsidence or the likelihood of subsidence.

Schedule 1 (8) authorises the payment of compensation if a certificate of compliance has been issued in relation to the improvement or subdivision under amendments to be made by **Schedule 1 (9)**.

Schedule 1 (9) gives the Board a discretion to issue certificates of compliance if improvements or subdivisions comply with all requirements other than having obtained prior Board approval.

Schedule 1 (10) empowers the Board to direct immediate cessation of work on an improvement or a subdivision that is commenced without Board approval or that does not conform to a Board approval. An owner who contravenes a direction by the Board is to be guilty of an offence (maximum penalty: 20 penalty units). The Board is authorised to bring proceedings in the Land and Environment Court for an order to restrain a contravention of a direction by the Board.

Schedule 1 (11) allows the Mine Subsidence Compensation Board to provide advice on various matters related to mine subsidence outside mine subsidence districts.

SCHEDULE 2 - CONSEQUENTIAL AMENDMENT OF LAND AND ENVIRONMENT COURT ACT 1979

Schedule 2 amends the Land and Environment Court Act 1979 as a consequence of the amendments made by **Schedule 1** that confer rights of appeal to that Court.