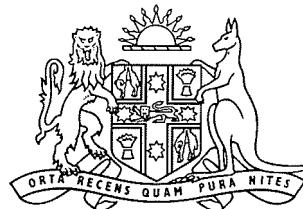


Passed by both Houses



New South Wales

# **Coal Acquisition Amendment (Fair Compensation) Bill 2005**

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*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY,  
has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of  
NEW SOUTH WALES.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney, , 2005*



New South Wales

## **Coal Acquisition Amendment (Fair Compensation) Bill 2005**

Act No , 2005

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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.

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*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

*Chairman of Committees of the Legislative Assembly.*

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**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.

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## 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.

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Schedule 1      Amendments

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- (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.

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Amendments

Schedule 1

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- (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.