

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

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.

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.

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.