

[Act 1997 No 22]



# Coal Acquisition Amendment Bill 1997

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.\*

### Overview of Bill

The objects of this Bill are:

- (a) to amend the *Coal Acquisition Act 1981* so as to allow coal that has been granted to eligible claimants under the *Coal Ownership (Restitution) Act 1990* to be re-acquired by the Crown, and
- (b) to amend the *Coal Ownership (Restitution) Act 1990* so as to remove any doubt as to the Minister's power to refuse a claim for restitution of coal under that Act.

---

\* Amended in committee—see table at end of volume.

---

## Outline of provisions

**Clause 1** specifies the name of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to a Schedule of amendments to the *Coal Acquisition Act 1981*.

**Clause 4** is a formal provision giving effect to a Schedule of amendments to the *Coal Ownership (Restitution) Act 1990*.

## **Schedule 1      Amendment of Coal Acquisition Act 1981**

### **Revesting of coal by proclamation**

Proposed section 5A (to be inserted by Schedule 1 [2]) provides for the revesting in the Crown of coal that has been granted to eligible claimants under the *Coal Ownership (Restitution) Act 1990*. The revesting is to be achieved by means of a proclamation made by the Governor on the recommendation of the Minister. In deciding whether to make such a recommendation, the Minister may have regard to the revenue that would be likely to accrue to the Crown if the coal were vested in the Crown. On publication of the proclamation, the coal is vested in the Crown freed and discharged from all trusts, leases, licences, obligations, estates, interests and contracts. Compensation for any losses arising from the revesting of the coal will be dealt with by arrangements under section 6 of the Act, to which consequential amendments are proposed by Schedule 1 [4], [5] and [6]. The proposed section 5A is to expire on 31 December 1998, after which date no further proclamations will be able to be made.

### **Acquisition of coal otherwise than by revesting**

Proposed section 5B (to be inserted by Schedule 1 [2]) provides for the acquisition by the Minister, on behalf of the Crown, of coal that has been granted to eligible claimants under the *Coal Ownership (Restitution) Act 1990*. Action under the proposed section will be able to be taken only on the recommendation of the Coal Compensation Board. The basis on which such recommendations are to be made, and the determination of the amount and method of payment of any consideration payable for coal acquired under the proposed section, are to be dealt with by arrangements under section 6 of the Act, to which a consequential amendment is proposed by Schedule 1 [7] (proposed section 6 (5)).

### **Miscellaneous**

Consequential amendments are proposed to the long title of the Act so as to reflect the substance of proposed sections 5A and 5B (Schedule 1 [1]) and to section 6 of the Act so as to provide that the arrangements under that section are to be made by order (Schedule 1 [3]). The requirement for the arrangements to be made by order will invoke section 43 of the *Interpretation Act 1987*, which provides that a power to make an order brings with it a power to amend or repeal an order so made. Schedule 1 [7] inserts a provision (proposed section 6 (6)) which provides that all arrangements under section 6 of the Act, whenever made, are taken to have been made by order.

### **Schedule 2    Amendment of Coal Ownership (Restitution) Act 1990**

#### **Minister's power to refuse claims for restitution**

Section 7 of the Act is proposed to be amended (Schedule 2 [2]) so as to make it clear that nothing in the Act, or any recommendation under the Act, requires the Minister to grant coal to eligible claimants and, in particular, that the Minister may refuse to grant coal to an eligible claimant if of the opinion that the Crown would lose significant revenue were the coal to cease to be vested in the Crown.

### **Miscellaneous**

The definition of *Compensation Arrangements* in section 3 of the Act is proposed to be amended (Schedule 2 [1]) so as to remove words that might misleadingly suggest that those arrangements have not been amended. Those arrangements have been amended several times, and under section 68 of the *Interpretation Act 1987*, references to those arrangements extend to those arrangements as in force for the time being (that is, as amended from time to time).