



New South Wales

Coal Acquisition Legislation Repeal Bill 2007

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to provide for the amendment, and eventual repeal, of the *Coal Acquisition Act 1981*, the *Coal Ownership (Restitution) Act 1990* and certain other legislation relating to the acquisition and restitution of rights with respect to coal (***the coal acquisition legislation***), and
- (b) to abolish the New South Wales Coal Compensation Board (***the Board***) and the New South Wales Coal Compensation Review Tribunal (***the Tribunal***), and
- (c) to make consequential amendments to other legislation, including amendments to enact provisions of a savings and transitional nature.

The Bill provides for:

- (a) the abolition of the current requirement that the Board must recommend the acquisition by the Crown of coal that has been granted under the *Coal Ownership (Restitution) Act 1990*, to take place on the date of assent to the proposed Act, and

- (b) the abolition of the Board (whose functions are to be transferred to the Director-General of the Department of Primary Industries) and the Tribunal (whose functions are to be transferred to the Land and Environment Court), to take place on a day to be appointed by proclamation, and
- (c) the repeal of the coal acquisition legislation once all claims and appeals under that legislation have been finally disposed of, to take place on a later day to be appointed by proclamation.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act (with specified exceptions) on the date of assent to the proposed Act. The provisions of proposed section 4 and proposed Schedule 2 are to commence on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedules of amendments (Schedules 1 and 2).

Clause 4 repeals the following Acts and instruments:

- (a) the *Coal Acquisition Act 1981*, and the *Coal Acquisition (Compensation) Arrangements 1985* and *Coal Acquisition (Re-acquisition Arrangements) Order 1997* made under that Act,
- (b) the *Coal Mining (Amendment) Act 1981*, and the *Coal Acquisition (Transitional Provisions) Regulation 1982* made under that Act,
- (c) the *Coal Ownership (Restitution) Act 1990*, and the *Coal Ownership (Restitution) Regulation 2005* made under that Act.

Clause 5 repeals the proposed Act on the day following the day on which all of its provisions have commenced.

Schedule 1 Amendments relating to the acquisition of coal otherwise than by revesting

Commencement of amendments

The amendments made by the proposed Schedule commence on the date of assent to the proposed Act.

Amendment of Coal Acquisition Act 1981

Schedule 1.1 amends the *Coal Acquisition Act 1981* (***the 1981 Act***) by omitting section 5B (3) and (4). Section 5B makes it clear that coal that has been granted to an eligible claimant under section 4 of the *Coal Ownership (Restitution) Act 1990* (***the 1990 Act***) may be acquired by the Crown by contract or other arrangement. Section 5B (3) provides that coal may not be so acquired except on the recommendation of the Board, and section 5B (4) provides that such a recommendation must be made in

accordance with the arrangements in force under section 6 of the 1981 Act. The repeal of section 5B (3) and (4) will mean that future acquisitions of coal will not require such a recommendation.

Amendment of Coal Acquisition (Re-acquisition Arrangements) Order 1997

Schedule 1.2 amends the *Coal Acquisition (Re-acquisition Arrangements) Order 1997 (the 1997 Order)* by omitting Part 4 (which deals with the recommendations referred to above) as a consequence of the proposed repeal of section 5B (3) and (4) of the 1981 Act.

Schedule 2 Amendments relating to the Coal Compensation Board and Compensation Review Tribunal

Commencement of amendments

The amendments made by the proposed Schedule commence on a day or days to be appointed by proclamation.

Amendment of Coal Acquisition (Compensation) Arrangements 1985

Schedule 2.1 [1] amends the *Coal Acquisition (Compensation) Arrangements 1985 (the 1985 Arrangements)* by omitting clauses 4, 5, 6, 26, 26A and 26B as a consequence of the proposed abolition of the Board and the Tribunal.

Schedule 2.1 [2] inserts proposed subclause (3B) into clause 29 of the 1985 Arrangements. The new subclause terminates the Tribunal's power to determine an appeal under those Arrangements by remitting the case to the Board.

Schedule 2.1 [3] omits Schedule 1 to the 1985 Arrangements as a consequence of the proposed abolition of the Board and Tribunal.

Amendment of Freedom of Information Regulation 2005

Schedule 2.2 omits the matter relating to the Board from Schedule 3 to the *Freedom of Information Regulation 2005* as a consequence of the proposed abolition of the Board.

Amendment of Mining Act 1992

Schedule 2.3 [1] amends clause 1 of Schedule 6 to the *Mining Act 1992* so as to enable the regulations under that Act to make provision of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 2.3 [2] inserts a new Part into Schedule 6 to the *Mining Act 1992*. The new Part contains the following provisions:

- (a) a definitions clause,

- (b) a provision that formally abolishes the Board and the Tribunal,
- (c) a provision that deems the assets of the Board to be assets of the Department of Primary Industries (*the Department*),
- (d) a provision that requires the Director-General of the Department to take over the Board's obligations with respect to the preparation of annual reports under the 1985 Arrangements,
- (e) a provision that requires the Director-General of the Department to take over the Board's obligations with respect to the handling of existing compensation claims under the 1985 Arrangements,
- (f) a provision that requires the Land and Environment Court to take over the Tribunal's obligations with respect to the handling of existing appeals under the 1985 Arrangements,
- (g) a provision that enables a person to appeal under the 1985 Arrangements to the Land and Environment Court against decisions by the Board with respect to past compensation claims and decisions by the Director-General of the Department with respect to existing compensation claims,
- (h) a provision that requires the Director-General of the Department to take over the Board's obligations with respect to the handling of existing compensation claims under the 1997 Order,
- (i) a provision that requires the Land and Environment Court to take over the Tribunal's obligations with respect to the handling of existing appeals under the 1997 Order,
- (j) a provision that enables a person to appeal under the 1997 Order to the Land and Environment Court against decisions by the Board with respect to past compensation claims and decisions by the Director-General of the Department with respect to existing compensation claims,
- (k) a provision that requires the Director-General of the Department to take over the Board's obligations with respect to the handling of claims for the granting of coal under the 1990 Act.

Amendment of Public Finance and Audit Act 1983

Schedule 2.4 omits the matter relating to the Board from Schedule 2 to the *Public Finance and Audit Act 1983* as a consequence of the proposed abolition of the Board.

First print



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New South Wales

Coal Acquisition Legislation Repeal Bill 2007

No. , 2007

A Bill for

An Act to amend, and eventually repeal, the *Coal Acquisition Act 1981*, the *Coal Ownership (Restitution) Act 1990* and certain other legislation relating to the acquisition and restitution of rights with respect to coal, and to make consequential amendments to certain other legislation.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Coal Acquisition Legislation Repeal Act 2007</i> .	3
2 Commencement	4
(1) This Act commences on the date of assent, except as provided by subsection (2).	5 6
(2) Section 4 and Schedule 2 commence on a day or days to be appointed by proclamation.	7 8
(3) Different days may be appointed for the commencement of a single provision of section 4 or Schedule 2 for the purpose of commencing the repeals or amendments effected by the provision on different days.	9 10 11
3 Amendment of other Acts and instruments	12
The Acts and instruments specified in Schedules 1 and 2 are amended as set out in those Schedules.	13 14
4 Repeal of other Acts and instruments	15
The following Acts and instruments are repealed:	16
(a) the <i>Coal Acquisition Act 1981</i> , and the <i>Coal Acquisition (Compensation) Arrangements 1985</i> and <i>Coal Acquisition (Re-acquisition Arrangements) Order 1997</i> made under that Act,	17 18 19
(b) the <i>Coal Mining (Amendment) Act 1981</i> , and the <i>Coal Acquisition (Transitional Provisions) Regulation 1982</i> made under that Act,	20 21 22
(c) the <i>Coal Ownership (Restitution) Act 1990</i> , and the <i>Coal Ownership (Restitution) Regulation 2005</i> made under that Act.	23 24
5 Repeal of this Act	25
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	26 27
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	28 29

Schedule 1	Amendments relating to acquisition of coal otherwise than by re-vesting	1
		2
	(Section 3)	3
1.1	Coal Acquisition Act 1981 No 109	4
	Section 5B Acquisition of coal on behalf of the Crown otherwise than by re-vesting	5
		6
	Omit section 5B (3) and (4).	7
1.2	Coal Acquisition (Re-acquisition Arrangements) Order 1997	8
	Part 4 Voluntary acquisition of coal by agreement	9
	Omit the Part.	10

Schedule 2	Amendments relating to the Coal Compensation Board and Compensation Review Tribunal	1
		2
		3
	(Section 3)	4
2.1	Coal Acquisition (Compensation) Arrangements 1985	5
[1]	Clauses 4, 5, 6, 26, 26A and 26B	6
	Omit the clauses.	7
[2]	Clause 29 Decisions of Compensation Review Tribunal	8
	Insert after clause 29 (3A):	9
	(3B) A claim or application may not be remitted pursuant to subclause (2) (b) or (3) (b) as a consequence of any decision made after the commencement of this subclause to allow an appeal.	10 11 12
[3]	Schedule 1 Provisions with respect to the Compensation Board and the Compensation Review Tribunal	13 14
	Omit the Schedule.	15
2.2	Freedom of Information Regulation 2005	16
	Schedule 3 Public authorities	17
	Omit the matter relating to the Coal Compensation Board from Part 3 of the Schedule.	18 19
2.3	Mining Act 1992 No 29	20
[1]	Schedule 6 Savings, transitional and other provisions	21
	Insert at the end of clause 1 (1):	22
	<i>Coal Acquisition Legislation Repeal Act 2007</i>	23

[2] Schedule 6	1
Insert at the end of the Schedule, with appropriate Part and clause numbers:	2
Part Provisions consequent on the enactment of the Coal Acquisition Legislation Repeal Act 2007	3 4 5
Definitions	6
In this Part:	7
<i>Board</i> means the New South Wales Coal Compensation Board established under the 1985 Arrangements.	8 9
<i>the 1985 Arrangements</i> means the <i>Coal Acquisition (Compensation) Arrangements 1985</i> , as in force immediately before the commencement of this Part.	10 11 12
<i>the 1990 Act</i> means the <i>Coal Ownership (Restitution) Act 1990</i> , as in force immediately before the commencement of this Part.	13 14
<i>the 1997 Order</i> means the <i>Coal Acquisition (Re-acquisition Arrangements) Order 1997</i> , as in force immediately before the commencement of this Part.	15 16 17
<i>Tribunal</i> means the New South Wales Coal Compensation Review Tribunal established under the 1985 Arrangements.	18 19
Abolition of Board and Tribunal	20
(1) The Board and the Tribunal are abolished.	21
(2) Any person who, immediately before the commencement of this Part, held office as a member of the Board or the Tribunal ceases to hold office as such on that commencement.	22 23 24
(3) A person who ceases to hold office pursuant to this clause is not entitled to compensation because of that loss of office.	25 26
Assets of the Board	27
Any assets that, immediately before the commencement of this Part, were available for use for the purposes of the Board become available, on that commencement, for use for the purposes of the Department.	28 29 30 31

Annual report	1
(1) The Board's obligations with respect to the preparation of annual reports under clause 7 of the 1985 Arrangements are taken to have become, on the commencement of this Part, the Director-General's obligations.	2 3 4 5
(2) A report prepared by the Director-General pursuant to such an obligation in relation to any period may form part of the Department's report under the <i>Annual Reports (Departments) Act 1985</i> in relation to the same period.	6 7 8 9
Pending claims under the 1985 Arrangements	10
(1) Any claim under the 1985 Arrangements that had not been determined before the commencement of this Part is to be determined by the Director-General.	11 12 13
(2) The provisions of the 1985 Arrangements apply to:	14
(a) the determination of such a claim, and	15
(b) the payment of compensation in connection with such a claim,	16 17
as if references in those provisions to the Board were references to the Director-General.	18 19
Pending appeals under the 1985 Arrangements	20
(1) Any appeal under the 1985 Arrangements that had not been determined before the commencement of this Part is to be determined by the Land and Environment Court.	21 22 23
(2) The provisions of the 1985 Arrangements apply to the determination of such an appeal as if references in those provisions to the Tribunal were references to the Land and Environment Court.	24 25 26 27
(3) In particular, the costs incurred by a party in respect of such an appeal are to be borne by that party, as provided by clause 12 of Schedule 3 to the 1985 Arrangements, and are not to be the subject of any order by the Land and Environment Court.	28 29 30 31
(4) Proceedings on such an appeal are taken to be proceedings in Class 3 of the Land and Environment Court's jurisdiction.	32 33
(5) Rules may be made under the <i>Land and Environment Court Act 1979</i> in relation to such an appeal.	34 35

New appeals under the 1985 Arrangements	1
(1) A person may, in accordance with the 1985 Arrangements, appeal to the Land and Environment Court against:	2
(a) any determination or refusal of a claim following a decision made by the Board before the commencement of this Part, or	3
(b) any determination or refusal of a claim following a decision made by the Director-General on or after the commencement of this Part.	4
(2) The provisions of the 1985 Arrangements apply to the determination of such an appeal as if:	5
(a) references in those provisions to the Tribunal were references to the Land and Environment Court, and	6
(b) references in those provisions to the Board, in relation to any decision referred to in subclause (1) (b), were references to the Director-General.	7
(3) In particular:	8
(a) the fee for filing a process to commence such an appeal is the fee prescribed by the 1985 Arrangements, and not the fee prescribed under the <i>Land and Environment Court Act 1979</i> , and	9
(b) the costs incurred by a party in respect of such an appeal are to be borne by that party, as provided by clause 12 of Schedule 3 to the 1985 Arrangements, and may not be the subject of any order by the Land and Environment Court.	10
(4) Proceedings on such an appeal are taken to be proceedings in Class 3 of the Land and Environment Court's jurisdiction.	11
(5) Rules may be made under the <i>Land and Environment Court Act 1979</i> in relation to such an appeal.	12
Pending applications under the 1997 Order	13
(1) Any application under the 1997 Order that had not been determined before the commencement of this Part is to be determined by the Director-General.	14
(2) The provisions of the 1997 Order and 1985 Arrangements apply to:	15
(a) the determination of such an application, and	16

- (b) the payment of compensation in connection with such an application, 1
as if references in those provisions to the Board were references 2
to the Director-General. 3
4

Pending appeals under the 1997 Order 5

- (1) Any appeal under the 1997 Order that had not been determined 6
before the commencement of this Part is to be determined by the 7
Land and Environment Court. 8
- (2) The provisions of the 1997 Order and 1985 Arrangements apply 9
to the determination of such an appeal as if references in those 10
provisions to the Tribunal were references to the Land and 11
Environment Court. 12
- (3) In particular, the costs incurred by a party in respect of such an 13
appeal are to be borne by that party, as provided by clause 12 of 14
Schedule 3 to the 1985 Arrangements, and are not to be the 15
subject of any order by the Land and Environment Court. 16
- (4) Proceedings on such an appeal are taken to be proceedings in 17
Class 3 of the Land and Environment Court's jurisdiction. 18
- (5) Rules may be made under the *Land and Environment Court Act* 19
1979 in relation to such an appeal. 20

New appeals under the 1997 Order 21

- (1) A person may, in accordance with the 1997 Order, appeal to the 22
Land and Environment Court against: 23
- (a) any determination or refusal of a claim following a 24
decision made by the Board before the commencement of 25
this Part, or 26
- (b) any determination or refusal of a claim following a 27
decision made by the Director-General on or after the 28
commencement of this Part. 29
- (2) The provisions of the 1997 Order and 1985 Arrangements apply 30
to the determination of such an appeal as if: 31
- (a) references in those provisions to the Tribunal were 32
references to the Land and Environment Court, and 33
- (b) references in those provisions to the Board, in relation to 34
any decision referred to in subclause (1) (b), were 35
references to the Director-General. 36

(3) In particular:	1
(a) the fee for filing a process to commence such an appeal is the fee prescribed by the 1997 Order, and not the fee prescribed under the <i>Land and Environment Court Act 1979</i> , and	2 3 4 5
(b) the costs incurred by a party in respect of such an appeal are to be borne by that party, as provided by clause 12 of Schedule 3 to the 1985 Arrangements, and may not be the subject of any order by the Land and Environment Court.	6 7 8 9
(4) Proceedings on such an appeal are taken to be proceedings in Class 3 of the Land and Environment Court's jurisdiction.	10 11
(5) Rules may be made under the <i>Land and Environment Court Act 1979</i> in relation to such an appeal.	12 13
Pending applications under the 1990 Act	14
(1) Any application under the 1990 Act that had not been determined before the commencement of this Part is to be determined by the Director-General.	15 16 17
(2) The provisions of the 1990 Act apply to:	18
(a) the determination of such an application, and	19
(b) the refund of compensation in connection with the granting of such an application,	20 21
as if references in those provisions to the Board were references to the Director-General.	22 23
2.4 Public Finance and Audit Act 1983 No 152	24
Schedule 2 Statutory bodies	25
Omit "New South Wales Coal Compensation Board".	26