



New South Wales

Clean Coal Administration Bill 2008

Explanatory note

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

Overview of Bill

The object of this Bill is to establish the Clean Coal Fund (to provide funding for clean coal technologies) and the Clean Coal Council (to give advice and make recommendations in relation to funding and clean coal technologies).

Outline of provisions

Part 1 Preliminary

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 on the date of assent to the proposed Act.

Clause 3 defines certain words and expressions used in the proposed Act. *Clean coal technologies* is defined to mean technologies for facilitating reduction of greenhouse gas emissions from the use of coal.

Part 2 Clean Coal Fund

Clause 4 provides for the establishment of the Clean Coal Fund (*the Fund*) in the Special Deposits Account, to be administered by the Minister.

Clause 5 sets out the purposes of the Fund which include the provision of funding for the commercialisation and promotion of clean coal technologies and research and development relating to such technologies.

Clause 6 makes provision for payments into the Fund and allows a voluntary contribution to the Fund to be made on the condition that the contribution is to be used only for a specified purpose.

Clause 7 provides that payments approved by the Minister, administrative expenses and payments directed or authorised to be paid from the Fund by or under the proposed Act or any other Act or law are payable from the Fund. Any money paid into the Fund on the condition that it is to be used only for a specified purpose, including any proceeds of the investment of that money in the Fund, is only payable from the Fund for the specified purpose and a proportionate share of the administrative expenses payable from the Fund.

Clause 8 provides for the investment of money in the Fund.

Part 3 Clean Coal Council

Clause 9 provides for the establishment of the Clean Coal Council (*the Council*).

Clause 10 provides that the Council is to consist of 5 members who are employed in or by a government agency, another 5 members nominated jointly by the Australian Coal Association and the Minerals Council to represent the New South Wales black coal industry and any other suitable person that the Minister may appoint from time to time.

Clause 11 sets out the functions of the Council (including giving advice about funding and matters relating to clean coal technologies and making recommendations about funding and research opportunities).

Clause 12 gives the Council the power to do all things that are necessary or convenient to be done for or in connection with the exercise of its functions.

Clause 13 provides that the Council may establish committees for specified purposes to assist it in connection with the exercise of its functions.

Schedule 1 contains provisions relating to members and procedure of the Council.

Part 4 Miscellaneous

Clause 14 allows the Minister to delegate to an officer of the Government Service the exercise of any of the Minister's functions under the proposed Act or the regulations.

Clause 15 contains a general regulation-making power.

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Explanatory note

Clause 16 requires the proposed Act to be reviewed 5 years from the date of assent to the proposed Act.



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New South Wales

Clean Coal Administration Bill 2008

No. , 2008

A Bill for

An Act to establish the Clean Coal Fund to provide funding for clean coal technologies; and to establish the Clean Coal Council.

Clause 1 Clean Coal Administration Bill 2008

Part 1 Preliminary

The Legislature of New South Wales enacts: 1

Part 1 Preliminary 2

1 Name of Act 3

This Act is the *Clean Coal Administration Act 2008*. 4

2 Commencement 5

This Act commences on the date of assent to this Act. 6

3 Definitions 7

In this Act: 8

clean coal technologies means technologies for facilitating reduction of greenhouse gas emissions from the use of coal. 9
10

exercise a function includes perform a duty. 11

function includes a power, authority or duty. 12

Minerals Council means the New South Wales Minerals Council Limited (ACN 002 500 316). 13
14

the Council means the Clean Coal Council established by this Act. 15

the Fund means the Clean Coal Fund established by this Act. 16

Part 2	Clean Coal Fund	1
4	Establishment of Fund	2
(1)	There is to be established in the Special Deposits Account a fund called the Clean Coal Fund.	3 4
(2)	The Fund is to be administered by the Minister.	5
5	Purposes of Fund	6
	The purposes of the Fund are as follows:	7
(a)	to provide funding for research into, and development of, clean coal technologies,	8 9
(b)	to provide funding to demonstrate clean coal technologies,	10
(c)	to provide funding to increase public awareness and acceptance of the importance of reducing greenhouse gas emissions through the use of clean coal technologies,	11 12 13
(d)	to provide funding for the commercialisation of clean coal technologies.	14 15
6	Payments into Fund	16
(1)	There is payable into the Fund:	17
(a)	all money advanced by the Treasurer for the Fund, and	18
(b)	all money appropriated by Parliament for the purposes of the Fund, and	19 20
(c)	the proceeds of the investment of money in the Fund, and	21
(d)	all money directed or authorised to be paid into the Fund by or under this or any other Act or law, and	22 23
(e)	all money received from voluntary contributions to the Fund made by any person or body.	24 25
(2)	A voluntary contribution to the Fund may be made on the condition that the contribution is to be used only for a specified purpose.	26 27
7	Payments out of Fund	28
(1)	There is payable from the Fund:	29
(a)	payments approved by the Minister for the purposes of the Fund, and	30 31
(b)	administrative expenses incurred in relation to the Fund or the Council, and	32 33
(c)	payments directed or authorised to be paid from the Fund by or under this or any other Act or law.	34 35

Part 3	Clean Coal Council	1
9	Establishment of Council	2
	There is established by this Act a Clean Coal Council.	3
10	Membership of Council	4
(1)	The Council is to consist of the following members appointed by the Minister:	5
	(a) five persons, each of whom is employed in or by a government agency,	6
	(b) five persons who are nominated jointly by the Australian Coal Association and the Minerals Council to represent the New South Wales black coal industry,	7
	(c) such other persons as the Minister may appoint from time to time, being persons whom the Minister considers have qualifications or experience relevant to the functions of the Council.	8
(2)	The Minister is to appoint one of the members of the Council as Chairperson of the Council.	9
(3)	If any or all of the nominations required for the purposes of subsection (1) (b) are not made within such time or in such manner as may be specified by the Minister by notice to the Australian Coal Association and the Minerals Council, the Minister may appoint any person or persons so that five members are appointed to represent the New South Wales black coal industry.	10
(4)	Schedule 1 has effect with respect to the Council.	11
11	Functions of Council	12
(1)	The functions of the Council are as follows:	13
	(a) to give advice and make recommendations to the Minister concerning the funding from the Fund of projects and other activities for the purposes of the Fund, including advice about priorities for funding and recommendations concerning applications for funding,	14
	(b) to advise the Minister on policies to encourage the development and implementation of clean coal technologies,	15
	(c) to make recommendations to the Minister concerning opportunities for involvement by private and public sector entities in interstate, national and international research projects involving clean coal technologies,	16

(d)	to advise the Minister on such other matters concerning clean coal technologies as the Minister may refer to the Council,	1
(e)	such other functions with respect to clean coal technologies as the Minister may from time to time direct.	2
(2)	The Council may give its advice and make its recommendations either at the request of the Minister or without any such request.	3
(3)	The Council has such other functions as are conferred or imposed on it by or under this or any other Act.	4
12	Powers of Council	5
	The Council may do all things that are necessary or convenient to be done for or in connection with the exercise of its functions, and, in particular, may:	6
(a)	consult with appropriate persons and bodies, and	7
(b)	undertake or commission research, and	8
(c)	obtain technical or professional advice, and	9
(d)	provide information to the public, and	10
(e)	consult with relevant international, Commonwealth, State and Territory bodies, and	11
(f)	issue guidelines relating to the required form and content of applications for funding from the Fund.	12
13	Committees of Council	13
(1)	The Council may establish committees for specified purposes to assist it in connection with the exercise of its functions.	14
(2)	A committee must include at least one member of the Council.	15
(3)	The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Council or (subject to any determination of the Council) by the committee.	16

Part 4	Miscellaneous	1
14	Delegation	2
	The Minister may delegate to a member of the Government Service the exercise of any of the Minister's functions under this Act or the regulations, other than this power of delegation.	3 4 5
15	Regulations	6
	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	7 8 9 10
16	Review of Act	11
(1)	The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	12 13 14
(2)	The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.	15 16
(3)	A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.	17 18

Schedule 1	Provisions relating to members and procedure of Council	1
		2
	(Section 10 (4))	3
1	Definitions	4
	In this Schedule:	5
	<i>Chairperson</i> means the Chairperson of the Council.	6
	<i>member</i> means a member of the Council.	7
2	Deputies of members	8
(1)	The Minister may, from time to time, appoint a person to be the deputy of a member, and may revoke any such appointment.	9 10
(2)	In the absence of a member, the member's deputy may, if available, act in the place of the member.	11 12
(3)	While acting in the place of a member, the deputy has all the functions of the member and is taken to be a member.	13 14
(4)	This clause does not operate to confer on the deputy of a member who is the Chairperson the member's functions as Chairperson.	15 16
3	Terms of office	17
	Subject to this Schedule, a member holds office for such period (not exceeding 5 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.	18 19 20
4	Allowances	21
	A member (other than a person employed in or by a government agency) is entitled to be paid such allowances as the Minister may from time to time determine in respect of the member.	22 23 24
5	Vacancy in office	25
(1)	The office of a member becomes vacant if the member:	26
(a)	dies, or	27
(b)	completes a term of office and is not re-appointed, or	28
(c)	resigns the office by instrument in writing addressed to the Minister, or	29 30
(d)	is removed from office by the Minister under this clause, or	31
(e)	absents himself or herself from 4 consecutive meetings of the Council of which reasonable notice has been given to the member personally or in the ordinary course of post, unless:	32 33 34

(i) the Council has granted the member leave to be absent from those meetings, or	1 2
(ii) within 4 weeks after the last of those meetings, the member is excused by the Council for having been absent from those meetings, or	3 4 5
(f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or	6 7 8 9
(g) becomes a mentally incapacitated person, or	10
(h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.	11 12 13 14 15
(2) The Minister may remove a member from office at any time.	16
6 Filling of vacancy in office of member	17
If the office of a member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.	18 19
7 Effect of certain other Acts	20
(1) The <i>Public Sector Employment and Management Act 2002</i> does not apply to the appointment of a member, subject to that Act (except Chapter 5).	21 22 23
(2) If by or under any Act provision is made:	24
(a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or	25 26
(b) prohibiting the person from engaging in employment outside the duties of that office,	27 28
the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.	29 30 31
(3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.	32 33
8 General procedure	34
The procedure for the calling of meetings of the Council and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Council.	35 36 37

9 Quorum	1
The quorum for a meeting of the Council is a majority of its members for the time being.	2 3
10 Minister may attend meeting	4
The Minister, or a delegate of the Minister, may attend meetings of the Council and may participate in discussions of the Council, but is not entitled to vote at any such meeting.	5 6 7
11 Presiding member	8
(1) The Chairperson or, in the absence of the Chairperson, another member elected to chair the meeting by the members present is to preside at a meeting of the Council.	9 10 11
(2) The person presiding at any meeting of the Council has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.	12 13 14
12 Voting	15
A decision supported by a majority of the votes cast at a meeting of the Council at which a quorum is present is the decision of the Council.	16 17
13 Transaction of business outside meetings or by telephone	18
(1) The Council may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Council for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Council.	19 20 21 22
(2) The Council may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.	23 24 25 26 27
(3) For the purposes of:	28
(a) the approval of a resolution under subclause (1), or	29
(b) a meeting held in accordance with subclause (2),	30
the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Council.	31 32
(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Council.	33 34

(5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.	1 2 3
14 First meeting	4
The Minister is to call the first meeting of the Council in such manner as the Minister thinks fit.	5 6 7