

Passed by both Houses



New South Wales

Coal Acquisition Legislation Repeal Bill 2007

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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, , 2007*



New South Wales

Coal Acquisition Legislation Repeal Bill 2007

Act No , 2007

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.

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

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *Coal Acquisition Legislation Repeal Act 2007*.

2 Commencement

- (1) This Act commences on the date of assent, except as provided by subsection (2).
- (2) Section 4 and Schedule 2 commence on a day or days to be appointed by proclamation.
- (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.

3 Amendment of other Acts and instruments

The Acts and instruments specified in Schedules 1 and 2 are amended as set out in those Schedules.

4 Repeal of other Acts and instruments

The following Acts and instruments are repealed:

- (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.

5 Repeal of this Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

**Schedule 1 Amendments relating to acquisition of
coal otherwise than by re-vesting**

(Section 3)

1.1 Coal Acquisition Act 1981 No 109

Section 5B Acquisition of coal on behalf of the Crown otherwise than by re-vesting

Omit section 5B (3) and (4).

1.2 Coal Acquisition (Re-acquisition Arrangements) Order 1997

Part 4 Voluntary acquisition of coal by agreement

Omit the Part.

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

(Section 3)

2.1 Coal Acquisition (Compensation) Arrangements 1985

[1] Clauses 4, 5, 6, 26, 26A and 26B

Omit the clauses.

[2] Clause 29 Decisions of Compensation Review Tribunal

Insert after clause 29 (3A):

- (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.

[3] Schedule 1 Provisions with respect to the Compensation Board and the Compensation Review Tribunal

Omit the Schedule.

2.2 Freedom of Information Regulation 2005

Schedule 3 Public authorities

Omit the matter relating to the Coal Compensation Board from Part 3 of the Schedule.

2.3 Mining Act 1992 No 29

[1] Schedule 6 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Coal Acquisition Legislation Repeal Act 2007

[2] **Schedule 6**

Insert at the end of the Schedule, with appropriate Part and clause numbers:

Part Provisions consequent on the enactment of the Coal Acquisition Legislation Repeal Act 2007

Definitions

In this Part:

Board means the New South Wales Coal Compensation Board established under the 1985 Arrangements.

the 1985 Arrangements means the *Coal Acquisition (Compensation) Arrangements 1985*, as in force immediately before the commencement of this Part.

the 1990 Act means the *Coal Ownership (Restitution) Act 1990*, as in force immediately before the commencement of this Part.

the 1997 Order means the *Coal Acquisition (Re-acquisition Arrangements) Order 1997*, as in force immediately before the commencement of this Part.

Tribunal means the New South Wales Coal Compensation Review Tribunal established under the 1985 Arrangements.

Abolition of Board and Tribunal

- (1) The Board and the Tribunal are abolished.
- (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.
- (3) A person who ceases to hold office pursuant to this clause is not entitled to compensation because of that loss of office.

Assets of the Board

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.

Annual report

- (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) 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 *Annual Reports (Departments) Act 1985* in relation to the same period.

Pending claims under the 1985 Arrangements

- (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.
- (2) The provisions of the 1985 Arrangements apply to:
 - (a) the determination of such a claim, and
 - (b) the payment of compensation in connection with such a claim,as if references in those provisions to the Board were references to the Director-General.

Pending appeals under the 1985 Arrangements

- (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.
- (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.
- (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.
- (4) Proceedings on such an appeal are taken to be proceedings in Class 3 of the Land and Environment Court's jurisdiction.
- (5) Rules may be made under the *Land and Environment Court Act 1979* in relation to such an appeal.

New appeals under the 1985 Arrangements

- (1) A person may, in accordance with the 1985 Arrangements, appeal to the Land and Environment Court against:
 - (a) any determination or refusal of a claim following a decision made by the Board before the commencement of this Part, or
 - (b) any determination or refusal of a claim following a decision made by the Director-General on or after the commencement of this Part.
- (2) The provisions of the 1985 Arrangements apply to the determination of such an appeal as if:
 - (a) references in those provisions to the Tribunal were references to the Land and Environment Court, and
 - (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.
- (3) In particular:
 - (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 *Land and Environment Court Act 1979*, and
 - (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.
- (4) Proceedings on such an appeal are taken to be proceedings in Class 3 of the Land and Environment Court's jurisdiction.
- (5) Rules may be made under the *Land and Environment Court Act 1979* in relation to such an appeal.

Pending applications under the 1997 Order

- (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.
- (2) The provisions of the 1997 Order and 1985 Arrangements apply to:
 - (a) the determination of such an application, and

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

Pending appeals under the 1997 Order

- (1) Any appeal under the 1997 Order that had not been determined before the commencement of this Part is to be determined by the Land and Environment Court.
- (2) The provisions of the 1997 Order and 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.
- (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.
- (4) Proceedings on such an appeal are taken to be proceedings in Class 3 of the Land and Environment Court's jurisdiction.
- (5) Rules may be made under the *Land and Environment Court Act 1979* in relation to such an appeal.

New appeals under the 1997 Order

- (1) A person may, in accordance with the 1997 Order, appeal to the Land and Environment Court against:
 - (a) any determination or refusal of a claim following a decision made by the Board before the commencement of this Part, or
 - (b) any determination or refusal of a claim following a decision made by the Director-General on or after the commencement of this Part.
- (2) The provisions of the 1997 Order and 1985 Arrangements apply to the determination of such an appeal as if:
 - (a) references in those provisions to the Tribunal were references to the Land and Environment Court, and
 - (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.

- (3) In particular:
 - (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 *Land and Environment Court Act 1979*, and
 - (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.
- (4) Proceedings on such an appeal are taken to be proceedings in Class 3 of the Land and Environment Court's jurisdiction.
- (5) Rules may be made under the *Land and Environment Court Act 1979* in relation to such an appeal.

Pending applications under the 1990 Act

- (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.
- (2) The provisions of the 1990 Act apply to:
 - (a) the determination of such an application, and
 - (b) the refund of compensation in connection with the granting of such an application,as if references in those provisions to the Board were references to the Director-General.

2.4 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Omit "New South Wales Coal Compensation Board".