

Coal Acquisition Act 1981 No 109

[1981-109]



New South Wales

Status Information

Currency of version

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Justices Legislation Repeal and Amendment Act 2001 No 121](#) (not commenced — to commence on 7.7.2003)

Authorisation

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Coal Acquisition Act 1981 No 109



New South Wales

An Act to vest all coal in the Crown, and to provide for the revesting in the Crown of certain coal granted to eligible claimants under the *Coal Ownership (Restitution) Act 1990*.

1 Name of Act

This Act may be cited as the *Coal Acquisition Act 1981*.

2 Commencement

- (1) This section and section 1 shall commence on the date of assent to this Act.
- (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3 Definitions

In this Act:

appointed day means the day appointed and notified under section 2 (2).

coal means coal within the meaning of the *Mining Act 1992* that is in a natural state on or below the surface of any land to which the legislative power of the State extends.

relevant proceedings means proceedings held in accordance with arrangements made under section 6 for the purpose of determining a case to which subsection (1) of that section applies, and includes the hearing of an appeal from original proceedings held for that purpose.

4 Effect of other Acts etc

This Act has effect notwithstanding:

- (a) any other Act or law,
- (b) anything in any grant, certificate of title, lease, licence or other instrument of title or tenure, or
- (c) anything in any other instrument or document in force, issued or executed before, on

or after the appointed day.

5 Vesting of coal in the Crown

(1) All coal that, but for this Act, would be vested in:

- (a) an instrumentality or agency of the Crown, or
- (b) any person other than the Crown,

is vested in the Crown freed and discharged from all trusts, leases, licences, obligations, estates, interests and contracts.

(2) This section does not apply to coal granted under the *Coal Ownership (Restitution) Act 1990*.

(3) The reference in subsection (1) to leases does not include, and is to be taken never to have included, a reference to coal leases within the meaning of the *Coal Mining Act 1973*.

5A Revesting in the Crown of coal granted under *Coal Ownership (Restitution) Act 1990*

(1) This section applies to coal granted under the *Coal Ownership (Restitution) Act 1990*, whether granted before or after the commencement of this section.

(2) On the recommendation of the Minister, the Governor may, by proclamation, declare that specified coal to which this section applies is vested in the Crown.

(3) 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.

(4) On the publication in the Gazette of a proclamation under this section, the coal specified in the proclamation is vested in the Crown freed and discharged from all trusts, leases, licences, obligations, estates, interests and contracts.

(5) The reference in subsection (4) to leases does not include a reference to mining leases within the meaning of the *Mining Act 1992*.

(6) This section expires at the end of 31 December 1998.

5B Acquisition of coal on behalf of the Crown otherwise than by revesting

(1) This section applies to coal granted under the *Coal Ownership (Restitution) Act 1990*, whether granted before or after the commencement of this section.

(2) The Minister may, on behalf of the Crown, acquire coal to which this section applies, whether by contract or other arrangement.

(3) The acquisition of coal under this section may be made only on the recommendation

of the New South Wales Coal Compensation Board established under the *Coal Acquisition (Compensation) Arrangements 1985*.

- (4) Such a recommendation must be made in accordance with any arrangements in force under section 6.

6 Arrangements by the Governor

- (1) The Governor may by order make arrangements:
- (a) for the determination of the cases, if any, in which compensation is to be payable as a result of the operation of section 5 or 5A, and
 - (b) if there are any such cases—for the determination of the amount and method of payment of any such compensation.
- (2) Except in the cases, if any, and to the extent, determined under subsection (1), compensation is not payable as a result of the operation of section 5 or 5A.
- (3) Arrangements under this section may differentiate between the persons to whom compensation is payable as a result of the operation of section 5 or 5A by providing that specified persons, or persons of a specified class, are not entitled to be paid more than a specified sum or specified sums of money in respect of coal vested in the Crown, irrespective of the amount of coal that they owned immediately before the commencement of section 5 or the publication of the relevant proclamation under section 5A, as the case requires.
- (4) Arrangements under this section may:
- (a) authorise the person presiding over relevant proceedings to issue a summons to a person requiring the person to appear at the proceedings for the purpose of giving evidence, or of producing documents specified in the summons, relevant to the determination of the proceedings, or both, and
 - (b) provide for the taking in the proceedings of evidence on oath before the person presiding over the proceedings.
- (5) Arrangements under this section may also provide for:
- (a) the basis on which any recommendation referred to in section 5B (3) is to be made, and
 - (b) the determination of the amount, and method of payment, of any consideration payable in respect of coal acquired under section 5B.
- (6) Arrangements under this section that, before the commencement of this subsection, were made otherwise than by order are taken always to have been made by order.
- (7) The amount of compensation payable under arrangements under this section must be

just and equitable in so far as the compensation:

- (a) results from the operation of section 5A, or
- (b) relates to a refusal by the Minister to grant coal to an eligible applicant, after the commencement of this subsection, under the *Coal Ownership (Restitution) Act 1990*.

For the purposes of giving effect to paragraph (b) any existing determination of the compensation concerned is to be re-determined in accordance with this subsection.

(8) It is the duty of the Minister:

- (a) to ensure that the arrangements are reviewed as soon as practicable after the commencement of this subsection, and thereafter from time to time, for the purpose of ascertaining whether or not the arrangements comply with subsection (7), and
- (b) to ensure that amendments to the arrangements are promoted, from time to time as necessary, to bring the arrangements into conformity with subsection (7).

7 Failure to attend relevant proceedings etc

(1) A person is guilty of an offence if:

- (a) arrangements in force under section 6 authorise the issue of summonses requiring attendance at relevant proceedings for a purpose specified in section 6 (4), and
- (b) the person:
 - (i) having been served with such a summons, fails without reasonable excuse to comply with the summons, or
 - (ii) having complied with the summons, fails without reasonable excuse to answer a question put to the person by the person presiding over the relevant proceedings concerned.

(2) A person is guilty of an offence if:

- (a) arrangements in force under section 6 provide for evidence in relevant proceedings to be taken on oath, and
- (b) the person, having appeared in such proceedings for the purpose of giving evidence, fails without reasonable excuse to take an oath in accordance with a requirement to do so imposed by the person presiding over the proceedings.

(3) A person who in any relevant proceedings gives evidence that the person knows to be false or misleading in a material respect is guilty of an offence.

Maximum penalty: 20 penalty units.

8 Proceedings for offences

Proceedings for an offence against this Act are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.