

Coal Mine Subsidence Compensation Regulation 2017

[2017-686]



New South Wales

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Provisions in force

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

Authorisation

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New South Wales

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Coal Mine Subsidence Compensation Regulation 2017



New South Wales

1 Name of Regulation

This Regulation is the *Coal Mine Subsidence Compensation Regulation 2017*.

2 Commencement

This Regulation commences on 1 January 2018 and is required to be published on the NSW legislation website.

3 Definition

(1) In this Regulation—

the Act means the *Coal Mine Subsidence Compensation Act 2017*.

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Meaning of “active coal mine”

(1) **Exclusion of certain coal mines with historically inactive areas** A coal mine that is a colliery holding referred to in paragraph (a) of the definition of **active coal mine** in section 4 (1) of the Act is excluded from that definition if any part of the holding is shown hatched red and labelled “inactive underground coal mining” on the Active Coal Mines Map.

(2) **Inclusion of certain coal mines (other than historically inactive areas)** A coal mine referred to in subclause (1) is prescribed for the purposes of paragraph (b) of the definition of **active coal mine** in section 4 (1) of the Act, but only in relation to land that is not shown hatched red and labelled “inactive underground coal mining” on the Active Coal Mines Map.

(3) In this clause—

Active Coal Mines Map means the *Coal Mine Subsidence Compensation Act 2017—Active Coal Mines Map* published in the Gazette on 8 December 2017.

authorisation means an authorisation under the *Mining Act 1992*.

mining lease means a mining lease under the *Mining Act 1992*.

5 Meaning of “infrastructure”

For the purposes of the definition of **infrastructure** in section 4 (1) of the Act, the following buildings and works are prescribed—

- (a) bridges,
- (b) weirs,
- (c) tunnels,
- (d) culverts.

6 Extension of time within which certain claims for compensation must be made

- (1) For the purposes of section 11 (4) of the Act, a claim for compensation for preventative or mitigative expenses under section 7 (2) (a) of the Act may, if the Chief Executive determines that special circumstances exist, be made within 6 months after the expense to which the claim relates became known to the claimant.
- (2) For the purposes of section 11 (5) of the Act, a claim for compensation for damage under section 7 (2) (b) of the Act incurred as a result of the exercise by the Chief Executive of powers under section 29 of the Act may, if the Chief Executive determines that special circumstances exist, be made within 6 months after the damage to which the claim relates became known to the claimant.

Note—

The following are examples of special circumstances—

- (a) if the claimant was absent on an extended period of travel during the initial 3 month period,
- (b) if the claimant has experienced illness or death in their immediate family during the initial 3 month period,
- (c) if the claimant has suffered from a mental incapacity during the initial 3 month period.

6A Mine subsidence districts

- (1) For the purposes of section 20 of the Act, an area whose boundaries are shown on a map held in the register of public surveys and having an identifier number specified in Schedule 3 is declared to be the mine subsidence district referred to in Schedule 3 opposite that identifier number.
- (2) In this clause, **register of public surveys** means the register of that name kept

under the *Surveying and Spatial Information Act 2002*.

7 Meaning of “qualified valuer”

For the purposes of the meaning of **qualified valuer** in section 26 (7) of the Act, the following classes of persons are prescribed—

- (a) the members of the Australian Valuers Institute (other than associate or student members),
- (b) the members of the Australian Property Institute (other than student or provisional members) who acquired membership in connection with their occupations as valuers,
- (c) the persons who hold membership of the Royal Institution of Chartered Surveyors as chartered valuers.

8 Provision of reports relating to ground movement and subsidence

The proprietor of an active coal mine must, at such times as are determined by the Chief Executive and notified to the proprietor, provide the Chief Executive with reports in relation to the coal mine, in the manner and form approved by the Chief Executive, on the following matters—

- (a) ground movement,
- (b) surveying data that indicates whether any subsidence is ongoing or complete.

Maximum penalty—10 penalty units.

9 Delegation

For the purposes of section 52 (1) (b) of the Act, the Secretary may delegate functions under the Act to a person who is a retired Supreme Court, Land and Environment Court or District Court judge.

10 Contributions under section 33

- (1) For the purposes of section 33 of the Act, the Chief Executive may, by notice in writing given to the proprietor of a coal mine specified in Column 1 of Schedule 2, levy the amount (if any) specified in Column 2 of that Schedule opposite that coal mine as a contribution payable to the Coal Mine Subsidence Compensation Fund.
- (2) A contribution levied by the Chief Executive is due and payable within 28 days of receipt of the notice referred to in subsection (1).
- (3) For any calendar year, the Chief Executive must not levy more than 1 contribution in respect of a particular coal mine.

Schedule 1 Penalty notice offences

For the purposes of section 57 of the Act—

- (a) each offence specified in this Schedule is an offence for which a penalty notice may be issued, and
- (b) the amount payable under any such penalty notice is the amount specified in this Schedule for the offence.

| Column 1 | Column 2 | Column 3 |
|---------------------------------------|----------------------------------|----------------------------------|
| Provision | Penalty for an individual | Penalty for a corporation |
| Offences under the Act | | |
| Section 15 (6) | \$1,250 | \$2,500 |
| Section 21 (1) and (2) | \$750 | \$1,500 |
| Section 27 (2) | \$2,500 | \$5,000 |
| Section 50 (2) | \$750 | \$1,500 |
| Offences under this Regulation | | |
| Clause 8 | \$500 | \$1,000 |

Schedule 2 Leviable contribution to Coal Mine Subsidence Compensation Fund

(Clause 10)

| Column 1 | Column 2 |
|------------------|---------------------|
| Coal mine | Contribution |
| Abel | — |
| Airly | \$101,054.87 |
| Angus Place | — |
| Appin | \$262,102.75 |
| Ashton | \$104,061.84 |
| Austar | — |
| Avondale | — |
| Awaba | — |
| Baal Bone | — |
| Bargo | — |
| Bengalla | \$492,699.09 |

| | |
|---|--------------|
| Berrima | — |
| Blandford Project | — |
| Bloomfield | \$16,849.32 |
| Blue Mountains | — |
| Boggabri | \$334,084.39 |
| Chain Valley | \$107,286.16 |
| Charbon | — |
| Clarence | \$135,591.07 |
| Cordeaux | — |
| Cullen Valley - Shoalhaven Coal Pty Ltd | — |
| Cumnock No 1 | \$449,762.77 |
| Dartbrook - Anglo | — |
| Dendrobium | \$300,228.51 |
| Donaldson Coal | — |
| Drayton | — |
| Duralie | — |
| Elouera | — |
| Enhance | — |
| Glennies Creek (HVCC) | \$134,357.17 |
| Gunnedah (NAMOI) | — |
| Hill Top No 2 | — |
| Hunter Valley Operations | \$533,465.59 |
| Huntley - Heritage | — |
| Invincible - Shoalhaven Coal Pty Ltd | — |
| Ivanhoe | — |
| Kandos | — |
| Lambton | — |
| Liddell | \$196,837.64 |
| Mandalong | \$355,680.35 |
| Mangoola | \$312,352.39 |
| Mannering | — |

| | |
|-----------------------------------|----------------|
| Maules Creek | \$482,519.70 |
| Metropolitan | \$50,106.19 |
| Mitchells Flat | — |
| Moolarben | \$1,066,557.13 |
| Mount Owen | \$348,392.48 |
| Mount Thorley | \$192,259.49 |
| Mt Arthur | \$737,983.53 |
| Mt Pleasant | \$343,392.39 |
| Munmorah | — |
| Muswellbrook | \$47,304.56 |
| Myuna | \$55,823.79 |
| Narrabri | \$327,049.35 |
| Nattai | \$1,563.73 |
| Neubecks Creek | — |
| New Wallsend No 2 | — |
| Newstan | — |
| Northern | — |
| Preston Extended | — |
| Ravensworth Operations | — |
| Ravensworth Underground | — |
| Ravensworth West Colliery | — |
| Rix's Creek | \$83,649.13 |
| Rocglen Open Cut | — |
| Russell Vale | \$716.47 |
| Sandy Creek | — |
| Saxonvale | — |
| Saxonvale Open Cut / Beltana No 1 | \$326,262.59 |
| South Bulga Underground | — |
| Springvale | \$155,388.46 |
| Stratford | \$24,686.14 |
| Sunnyside | — |

| | |
|--------------------------|--------------|
| Tahmoor | \$130,161.02 |
| Tarrawonga | \$94,966.48 |
| Tasman | — |
| Tower | — |
| Ulan | \$736,168.08 |
| United | — |
| United Wambo JV—Glencore | \$46,341.88 |
| United Wambo JV—Peabody | \$70,776.67 |
| Vickery Colliery | — |
| Walarah | — |
| Wallerawang | — |
| Wambo | \$174,492.47 |
| Warkworth | \$386,097.07 |
| Werris Creek No 2 | \$85,453.51 |
| West Cliff | — |
| West Wallsend | — |
| Westside Open Cut | — |
| Westside (Teralba) | — |
| Whitehaven | \$4,176.44 |
| Wilpinjong | \$591,297.32 |
| Wongawilli | — |

Schedule 3 Mine subsidence districts

(Clause 6A)

Mine subsidence district

Map identifier number

Branxton Mine Subsidence District

PP5229

Note—

Areas proclaimed by the *Mine Subsidence Compensation (Mine Subsidence Districts) Proclamation 2017* to be mine subsidence districts under the *Mine Subsidence Compensation Act 1961* immediately before its repeal are taken to be mine subsidence districts under the *Coal Mine Subsidence Compensation Act 2017*—see clause 8 of Schedule 1 to the Act.