

# Coal Acquisition Act 1981 No 109

[1981-109]



New South Wales

## Status Information

### Currency of version

Current version for 11 October 2021 to date (accessed 3 May 2024 at 7:11)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Notes—

- **Proposed repeal**

The Act is to be repealed on the commencement of sec 4 (a) of the [Coal Acquisition Legislation Repeal Act 2007 No 62](#).

- **Editorial note**

The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-rules (em-dashes). Text of the legislation is not affected.

This version has been updated.

### Responsible Minister

- Minister for Natural Resources

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 11 October 2021

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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.

**Coal Compensation Board** means the New South Wales Coal Compensation Board established under the [Coal Acquisition \(Compensation\) Arrangements 1985](#).

**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, 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](#).
- (4) The provisions of this section have effect despite anything contained in section 42 of the [Real Property Act 1900](#).

## **5A (Repealed)**

## **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), (4) (Repealed)

## **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) (taking into account section 6A), 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).

#### **6A Special provisions relating to compensation**

- (1) Section 6, and any arrangements made under that section, are subject to the provisions of this section.
- (2) If royalty is to be included in the determination of compensation under section 6 in relation to any claim, the royalty is to be calculated in accordance with the provisions of the *Mining Act 1992* and the *Mining Regulation 2003* relating to the payment of royalty, as those provisions were in force immediately before 1 July 2004.
- (3) Despite subsection (2), the determination of compensation payable under section 6 in relation to any claim must not include an additional amount in respect of royalty under section 283 (1) (b) of the *Mining Act 1992* (or any provision of or made under the former *Coal Mining Act 1973* relating to the payment of additional royalty) unless the Coal Compensation Board considers it appropriate and the amount relates to a period occurring before 1 July 2004.
- (4) Any additional amount of royalty referred to in subsection (3) is to be calculated in accordance with the provisions of section 283 (1) (b) of the *Mining Act 1992*, and the relevant provisions of the *Mining Regulation 2003*, as in force immediately before 1 July 2004.
- (5) The determination of compensation payable under section 6 in relation to any claim must not include any amount in respect of any contract or other arrangement that—
  - (a) was entered into by an applicant or tenderer for, or the holder of, any lease, licence or other authorisation under the *Coal Mining Act 1973* (as in force before its repeal) or the *Mining Act 1992*, and
  - (b) was entered into for the purpose of fulfilling a requirement relating to the grant of the lease, licence or other authorisation or a condition of the lease, licence or other authorisation, and
  - (c) related to the price at which coal was to be supplied to another party to the contract or arrangement.
- (6) The provisions of this section extend to any compensation in relation to a claim that has not been finally determined at the commencement of this section, including a claim that is the subject of any appeal, judicial review or redetermination.
- (7) However, the provisions of this section—
  - (a) do not affect any payment of compensation under section 6 made before the commencement of this section if the payment was in respect of a claim that had been finally determined before that commencement, or

(b) do not entitle any person who has received a payment referred to in paragraph (a) in respect of a claim to any further payment of compensation under section 6 in respect of the claim.

(8) The arrangements made under section 6 may (but need not) make provision with respect to the circumstances in which a claim is taken to have been finally determined for the purposes of this section.

(9) In this section, a reference to a claim includes a reference to an application.

## **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 the Local Court.