

# Coal Ownership (Restitution) Act 1990 No 19

[1990-19]



New South Wales

## Status Information

### Currency of version

Current version for 1 July 2018 to date (accessed 5 May 2024 at 1:00)

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The Act is to be repealed on the commencement of sec 4 (c) of the [Coal Acquisition Legislation Repeal Act 2007 No 62](#).

### 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 1 July 2018

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# Coal Ownership (Restitution) Act 1990 No 19



New South Wales

An Act to provide for the restitution of certain coal acquired by the Crown as a result of the operation of the [Coal Acquisition Act 1981](#) and to provide for related matters.

## 1 Name of Act

This Act may be cited as the [Coal Ownership \(Restitution\) Act 1990](#).

## 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

## 3 Definitions

In this Act:

**coal** has the same meaning as in the [Coal Acquisition Act 1981](#).

**coal to which this Act applies** means coal that:

- (a) was vested in the Crown by the operation of section 5 of the [Coal Acquisition Act 1981](#), and
- (b) on 1 January 1986, was located in land outside a colliery holding.

**colliery holding** has the same meaning as in the [Mining Act 1992](#).

**Compensation Arrangements** means the [Coal Acquisition \(Compensation\) Arrangements 1985](#).

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

**eligible claimant** means a person who has made a claim for compensation in accordance with the Compensation Arrangements and whose claim has been allowed by the Compensation Board, either before or after the commencement of this section, or:

- (a) if such a person has died—means the person's legal personal representative, or
- (b) if such a person is a protected person within the meaning of the [NSW Trustee and](#)

*Guardian Act 2009*—means the manager of the person’s estate under that Act, or

- (c) if such a person is an insolvent under administration—means the trustee in bankruptcy of the person’s estate, or
- (d) if such a person is a minor—means the minor’s next friend, or
- (e) if such a person was a body corporate, whether a company or not, which has been dissolved and the property of that body is, by law, vested in a specified person—means that specified person.

***insolvent under administration*** means a person who:

- (a) under the *Bankruptcy Act 1966* of the Commonwealth or the law of an external Territory of the Commonwealth, is a bankrupt in respect of a bankruptcy from which the person has not been discharged, or
- (b) under the law of a country other than Australia or the law of an external Territory of the Commonwealth, has the status of an undischarged bankrupt,

and includes:

- (c) a person who has executed a deed of arrangement under Part X of the *Bankruptcy Act 1966* of the Commonwealth, or under the corresponding provisions of the law of an external Territory of the Commonwealth or of the law of a country other than Australia, where the terms of the deed have not been fully complied with, and
- (d) a person whose creditors have accepted a composition under Part X of the *Bankruptcy Act 1966* of the Commonwealth, or under the corresponding provisions of the law of an external Territory of the Commonwealth or of the law of a country other than Australia, where a final payment has not been made under that composition.

#### **4 Power of the Minister to grant coal in accordance with this Act**

- (1) The Minister may, in accordance with this Act, grant to eligible claimants coal to which this Act applies.
- (2) The Minister may exercise the power conferred by this section only on the recommendation of the Compensation Board.
- (3) Coal granted under this Act is to be granted for an estate in fee simple.
- (4) The *Crown Land Management Act 2016* applies to the disposal of coal under this Act only to the extent (if any) that the regulations provide.

#### **5 Eligible claimant may apply for restitution of ownership of coal to which this Act applies**

- (1) If coal to which this Act applies was, immediately before 1 January 1982, owned by an eligible claimant or a person through whom the claimant claims, the claimant may

make an application to the Compensation Board requesting the Board to make a recommendation to the Minister that the ownership of the coal be restored to the claimant.

- (2) An application under this section must:
  - (a) be made in the manner and within the period prescribed by the regulations, and
  - (b) contain the information so prescribed, and
  - (c) be accompanied by any documents of a kind so prescribed.
- (3) As soon as practicable after such an application is received by the Compensation Board, the Board must inquire into the application and make a report of its findings to the Minister, together with a recommendation as to whether or not the application should be granted.
- (4) If:
  - (a) 2 or more eligible claimants have received or would, but for this Act, be entitled to receive compensation under the Compensation Arrangements for or in respect of the same coal, and
  - (b) any of those claimants has made an application under this section,the Compensation Board may reject the application.

## **6 Eligible claimant must refund compensation**

- (1) The Minister must not grant to an eligible claimant coal to which this Act applies unless the claimant has refunded to the Compensation Board any amount of compensation paid to the claimant, or a person through whom the claimant claims, by that Board in respect of the acquisition of the coal by the Crown under the [Coal Acquisition Act 1981](#).
- (2) (Repealed)

## **7 Decision of Minister not to be questioned except in limited circumstances**

- (1) A decision as to whether or not coal should be granted under this Act is, subject to this Act, in the absolute discretion of the Minister.
- (1A) Without limiting subsection (1):
  - (a) nothing in this Act, or any recommendation under this Act, requires the Minister to grant coal to eligible claimants, and
  - (b) in particular, the Minister may refuse to grant coal to an eligible claimant if of the opinion that the Crown would lose significant revenue were the coal to cease to be

vested in the Crown.

- (2) A court has no jurisdiction to question a decision of the Minister, or a recommendation of the Compensation Board, under this Act, except on the ground of lack of procedural fairness.

## **8 Power of the Minister to delegate functions under this Act**

The Minister may, by instrument in writing, delegate to a specified person or a person holding a specified office any of the Minister's functions under this Act, other than this power of delegation.

## **9 Regulations**

- (1) 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.
- (2) In particular, the regulations may make provision for or with respect to the following:
  - (a) the information to be provided in applications under this Act and in documents required to accompany those applications,
  - (b) the period within which such applications must be made,
  - (c) the procedure for determining of such applications,
  - (d) the factors to be taken into account in determining such applications.

## **10 (Repealed)**