

Mine Subsidence Compensation Amendment Act 2014 No 55

[2014-55]



New South Wales

Status Information

Currency of version

Repealed version for 24 October 2014 to 31 December 2017 (accessed 12 July 2024 at 4:23)

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

Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

Notes—

- **Repeal**

This Act was repealed by sec 60 of the [Coal Mine Subsidence Compensation Act 2017 No 37](#) with effect from 1.1.2018.

- **Note**

Amending Acts and amending provisions are subject to automatic repeal pursuant to sec 30C of the [Interpretation Act 1987 No 15](#) once the amendments have taken effect.

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 January 2018

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Mine Subsidence Compensation Amendment Act 2014 No 55



New South Wales

An Act to make miscellaneous amendments to the *Mine Subsidence Compensation Act 1961* relating to claims for compensation under that Act; and for other purposes.

1 Name of Act

This Act is the *Mine Subsidence Compensation Amendment Act 2014*.

2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by this section.
- (2) Schedule 1 [7] and [8] commence on a day to be appointed by proclamation.

Schedule 1 Amendment of *Mine Subsidence Compensation Act 1961* No 22

[1]-[6] (Repealed)

[7] Section 12B (2)

Insert after section 12B:

- (2) A person who has made an application under section 13A may appeal to the Land and Environment Court against a decision of the Board on the application.

Note—

The Land and Environment Court, when hearing an appeal under this section, makes its decision in the place of the Board. In addition to its other functions and discretions, the Land and Environment Court has all the functions and discretions which the Board had in respect of the original decision. An appeal is by way of rehearing, and fresh evidence or evidence in addition to or in substitution for, the evidence given to the Board may be given on the appeal (See section 39 of the *Land and Environment Court Act 1979*).

[8] Section 13A

Omit the section. Insert instead:

13A Works for prevention or mitigation of damage from subsidence

- (1) The Board may expend money for the funding of works to prevent or mitigate damage to improvements or household or other effects that the Board anticipates would occur (in the absence of the works) by reason of subsidence if the Board is satisfied that the expenditure will result in a net benefit to the Fund. Those works are **authorised works** for the purposes of this section.
- (2) The Board may decide to fund authorised works of its own motion or on the application of an interested party but an application cannot be made after subsidence has commenced.
- (3) The following restrictions apply to the funding of authorised works pursuant to an application (but not to the funding of works of the Board's own motion):
 - (a) the Board is not to fund works unless the Board is satisfied that there are special circumstances that justify funding the works before subsidence has commenced,
 - (b) the Board is not to fund works after subsidence has commenced.

Note—

Sections 12 and 12A deal with claims after subsidence has commenced.

- (4) For the purposes of this section, expenditure is considered to result in a net benefit to the Fund if the amount of the expenditure would be less than the amount of the total prospective liability of the Fund resulting from claims under sections 12 and 12A in respect of the anticipated damage.
- (5) The Board must, when exercising its powers under this section in respect of an application for the funding of authorised works, give effect to any policy declared by the Minister by order published in the Gazette to be a policy that is required to be given effect to by the Board.
- (6) The Board can fund authorised works under this section by:
 - (a) carrying out the authorised works or causing those works to be carried out, or
 - (b) contributing a proportionate amount to the cost of the carrying out of works by another person that include the authorised works.
- (7) An application for the funding of authorised works under this section is to be made in the form approved by the Board. The Board must notify an applicant of its decision on an application and the reasons for its decision.

- (8) The funding of works is authorised under this section regardless of whether the anticipated damage is damage to improvements or household or other effects on the land on which the works are to be carried out.
- (9) In this section ***interested party***, in relation to proposed works to prevent or mitigate damage to any improvement or household or other effects, means the owner of the improvement or household or other effects or a person acting with the written consent of the owner.

[9]-[16] (Repealed)