

Coal Acquisition (Transitional Provisions) Regulation 1982

[1982-187]



New South Wales

Status Information

Currency of version

Repealed version for 10 September 1982 to 6 December 2007 (accessed 26 November 2024 at 8:24)

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—

- **Note**

The Regulation was to be repealed by sec 4 (b) of the [Coal Acquisition Legislation Repeal Act 2007 No 62](#) but was impliedly repealed by repeal of the [Coal Mining \(Amendment\) Act 1981](#) by Part 3 of Sch 5 to the [Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2007 No 82](#) with effect from 7.12.2007.

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](#).

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Coal Acquisition (Transitional Provisions) Regulation 1982



New South Wales

1 Name of Regulation

This Regulation may be cited as the *Coal Acquisition (Transitional Provisions) Regulation 1982*.

2 Operation of Regulation

This Regulation has effect notwithstanding anything in Schedule 2 to the *Coal Mining (Amendment) Act 1981*.

3 Definitions

(1) In this Regulation:

appointed day means the day appointed and notified under section 2 (2) of the *Coal Acquisition Act 1981*.

Principal Act means the *Coal Mining Act 1973*, as from time to time in force before the appointed day.

Secretary means Secretary, Department of Mineral Resources.

(2) In this Regulation, a reference (however expressed) to the terms and conditions of an authorisation to mine, or of a coal lease, in force immediately before the appointed day does not include a reference to terms and conditions relating to:

(a) payment of royalty in respect of coal that, by the operation of section 5 of the *Coal Acquisition Act 1981*, became vested in the Crown, or

(b) payment of rent for land (other than rent for the surface of land) in which was situated any such coal.

4 Authorisation to mine coal

(1) Where an authorisation to mine was in force under the Principal Act immediately before the appointed day, the person who, immediately before that day, was the registered holder thereof shall be deemed to have been granted a coal lease under

that Act, as amended by the *Coal Mining (Amendment) Act 1981*, over the land to which the authorisation to mine related on the terms and conditions specified in subclause (2) and for the period specified in clause 7.

- (2) Subject to subclause (3), the terms and conditions specified in this subclause in relation to a coal lease deemed by subclause (1) to have been granted are:
 - (a) subject to paragraph (b)—terms and conditions that, subject to clause 7, are the same as those upon which the authorisation to mine referred to in subclause (1) was granted, or
 - (b) where the Minister at any time by order in writing served on the registered holder of the lease specifies that the terms and conditions to which, pursuant to paragraph (a), the lease is subject are varied or added to in a manner specified in the order—those terms and conditions as so varied or added to.
- (3) Subclause (2) does not operate to subject a coal lease deemed by subclause (1) to have been granted to a term or condition of an authorisation to mine in so far as, by the term or condition, the authorisation to mine was subject to:
 - (a) such of the provisions of the Principal Act, or of the regulations made thereunder, as applied to an authorisation to mine, or
 - (b) a term or condition of a consent under section 21 (1) of the Principal Act pursuant to which the grant of the authorisation to mine was applied for.

5 Lease of coal other than Crown coal

- (1) Where, immediately before the appointed day, a coal lease granted under the Principal Act or deemed to have been so granted was in force over land in which was situated coal vested in or reserved to the Crown and also over other land in which was situated coal that, by the operation of section 5 of the *Coal Acquisition Act 1981*, became vested in the Crown, that coal lease extends to and includes that other land and the coal therein.
- (2) Where, immediately before the appointed day, a coal lease granted under the Principal Act or deemed to have been so granted (not being a coal lease referred to in subclause (1)) was in force over land in which was situated coal that, by the operation of section 5 of the *Coal Acquisition Act 1981*, became vested in the Crown, the person who, immediately before the appointed day, was the registered holder of the coal lease shall be deemed to have been granted a coal lease under the Principal Act, as amended by the *Coal Mining (Amendment) Act 1981*, over the land to which the coal lease so in force related and the coal therein on terms and conditions that, subject to clause 7, are the same as those upon which the coal lease so in force was granted.
- (3) Where, immediately before the appointed day, an application for renewal of a coal lease referred to in subclause (1) or (2) as being in force immediately before the

appointed day had not been granted or refused, the application shall be dealt with:

- (a) in the case of a coal lease referred to in subclause (1)—as if it were an application for a renewal of that lease as extended by that subclause, or
- (b) in the case of a coal lease referred to in subclause (2)—as if it were an application for a renewal of the coal lease deemed by that subclause to have been granted.

6 Other former rights to mine coal

- (1) A person who, immediately before the appointed day, had a right to mine coal in a colliery holding otherwise than pursuant to an authorisation to mine in force under the Principal Act or a coal lease granted under the Principal Act or deemed to have been so granted shall be deemed to have been granted, on the terms and conditions specified in subclause (2) and for the period specified in clause 7, a coal lease under that Act, as amended by the *Coal Mining (Amendment) Act 1981*, over such of the land specified in the plan and particulars relating to the colliery holding lodged under section 35A of the *Coal Mines Regulation Act 1912*, as is not the subject of a coal lease that:
 - (a) was granted under the Principal Act or was deemed to have been so granted or was granted under the Principal Act as amended by the *Coal Mining (Amendment) Act 1981*,
 - (b) is deemed by clause 4 (1) or 5 (2) to have been granted under the Principal Act, as so amended, or
 - (c) was granted under the Principal Act and extended by clause 5 (1).
- (2) The terms and conditions specified in this subclause in relation to a coal lease deemed by subclause (1) to have been granted are:
 - (a) that the registered holder of the coal lease shall at all times keep and preserve from avoidable injury or damage any mine or seam to which the coal relates,
 - (b) where coal mined pursuant to the coal lease is not immediately saleable, the registered holder of the coal lease shall not:
 - (i) without the consent of the Minister, store or dispose of the coal in a manner, or at a location, at any time prohibited by an order made by the Minister for the purposes of this clause and published in the Gazette, or
 - (ii) store or dispose of the coal in a manner, or at a location, at any time prohibited by the Minister by order in writing served on that registered holder, and
 - (c) any other terms and conditions at any time specified by the Minister by order in writing so served.

7 Duration of transitional coal lease

- (1) The period for which a coal lease is deemed by clause 4 (1) to have been granted is the period expiring:
 - (a) where, if the *Coal Acquisition Act 1981*, the *Coal Mining (Amendment) Act 1981* and section 25 (12) of the Principal Act had not been enacted, the authorisation to mine referred to in clause 4 (1) would have been due to expire, or could have continued in force for a period that might have expired, more than 21 years after it was granted—21 years after that authorisation to mine was granted,
 - (b) where, if those Acts and that section had not been enacted, the authorisation to mine so referred to would have been due to expire after 31 December 1986, but before the expiration of 21 years after it was granted—at the time at which, if those Acts and that section had not been enacted, that authorisation to mine would have been due to expire, or
 - (c) where, if those Acts and that section had not been enacted, the authority to mine so referred to would have been due to expire before 1 January 1987—on 31 December 1986.
- (2) Where by clause 5 (2) a coal lease is deemed to have been granted (not being a coal lease in respect of which an application for renewal is to be dealt with as provided by clause 5 (3) (b)), the period for which it is deemed to have been granted is the period expiring when the coal lease referred to in clause 5 (2) as being in force immediately before the appointed day would have been due to expire if the *Coal Acquisition Act 1981* and the *Coal Mining (Amendment) Act 1981* had not been enacted.
- (3) Where by clause 5 (2) a coal lease is deemed to have been granted (being a coal lease in respect of which an application for renewal is to be dealt with as provided by clause 5 (3) (b)) it shall, for the purposes of section 56 of the Principal Act, as amended by the *Coal Mining (Amendment) Act 1981*, be deemed to be a coal lease that would, but for that section, have ceased to have effect immediately after this Regulation took effect.
- (4) The period for which a coal lease is deemed by clause 6 (1) to have been granted is the period expiring:
 - (a) where, if the *Coal Acquisition Act 1981* and the *Coal Mining (Amendment) Act 1981* had not been enacted, the right to mine referred to in clause 6 (1) would have been due to expire more than 21 years after the appointed day or could have continued for an indefinite period—on 31 December 2002,
 - (b) where, if those Acts had not been enacted, the right to mine so referred to would have been due to expire after 31 December 1986, but before 1 January 2003—at the time at which, but for the enactment of those Acts, that right to mine would have been due to expire, or

- (c) where, if those Acts had not been enacted, the right to mine so referred to would have been due to expire before 1 January 1987—on 31 December 1986.

8 Time of payment of sec 75 rent

Where a person to whom by this Regulation a lease is deemed to have been granted is required to pay to the Crown rent deemed by section 75 of the Principal Act to have been reserved by the lease, the rent is, except to the extent that payment thereof is waived under clause 9, payable at the time and in the manner specified in a notice from the Secretary served on the registered holder of the lease.

9 Waiver of sec 75 rent

Where a person to whom by this Regulation a coal lease is deemed to have been granted is required to pay to the Crown rent deemed by section 75 of the Principal Act to have been reserved by the lease and the Secretary is satisfied that rent to which that section relates:

- (a) was paid to a person other than the Crown pursuant to and in accordance with an agreement or lease in force immediately before the appointed day that related to the land in respect of which the rent is payable to the Crown, and
 - (b) was so paid in advance in respect of a period ending after the appointed day,
- the Secretary may wholly or partly waive payment of the rent to the Crown.