

## **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

(a) to provide for the amendment, and eventual repeal, of the *Coal Acquisition Act 1981*, the *Coal Ownership (Restitution) Act 1990* and certain other legislation relating to the acquisition and restitution of rights with respect to coal (***the coal acquisition legislation***), and

(b) to abolish the New South Wales Coal Compensation Board (***the Board***) and the New South Wales Coal Compensation Review Tribunal (***the Tribunal***), and

(c) to make consequential amendments to other legislation, including amendments to enact provisions of a savings and transitional nature.

The Bill provides for:

(a) the abolition of the current requirement that the Board must recommend the acquisition by the Crown of coal that has been granted under the *Coal Ownership (Restitution) Act 1990*, to take place on the date of assent to the proposed Act, and

(b) the abolition of the Board (whose functions are to be transferred to the Director-General of the Department of Primary Industries) and the Tribunal (whose functions are to be transferred to the Land and Environment Court), to take place on a day to be appointed by proclamation, and

(c) the repeal of the coal acquisition legislation once all claims and appeals under that legislation have been finally disposed of, to take place on a later day to be appointed by proclamation.

Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act (with specified exceptions) on the date of assent to the proposed Act. The provisions of proposed section 4 and proposed Schedule 2 are to commence on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the Schedules of amendments (Schedules 1 and 2).

**Clause 4** repeals the following Acts and instruments:

(a) the *Coal Acquisition Act 1981*, and the *Coal Acquisition (Compensation) Arrangements 1985* and *Coal Acquisition (Re-acquisition Arrangements) Order 1997* made under that Act,

(b) the *Coal Mining (Amendment) Act 1981*, and the *Coal Acquisition (Transitional Provisions) Regulation 1982* made under that Act,

(c) the *Coal Ownership (Restitution) Act 1990*, and the *Coal Ownership (Restitution) Regulation 2005* made under that Act.

**Clause 5** repeals the proposed Act on the day following the day on which all of its provisions have commenced.

## **Schedule 1 Amendments relating to the acquisition of coal otherwise than by revesting**

### **Commencement of amendments**

The amendments made by the proposed Schedule commence on the date of assent to the proposed Act.

### **Amendment of Coal Acquisition Act 1981**

**Schedule 1.1** amends the *Coal Acquisition Act 1981* (***the 1981 Act***) by omitting section 5B (3) and (4). Section 5B makes it clear that coal that has been granted to an eligible claimant under section 4 of the *Coal Ownership (Restitution) Act 1990* (***the 1990 Act***) may be acquired by the Crown by contract or other arrangement. Section 5B (3) provides that coal may not be so acquired except on the recommendation of

the Board, and section 5B (4) provides that such a recommendation must be made in accordance with the arrangements in force under section 6 of the 1981 Act. The repeal of section 5B (3) and (4) will mean that future acquisitions of coal will not require such a recommendation.

#### **Amendment of Coal Acquisition (Re-acquisition Arrangements) Order 1997**

**Schedule 1.2** amends the *Coal Acquisition (Re-acquisition Arrangements) Order 1997 (the 1997 Order)* by omitting Part 4 (which deals with the recommendations referred to above) as a consequence of the proposed repeal of section 5B (3) and (4) of the 1981 Act.

#### **Schedule 2 Amendments relating to the Coal Compensation Board and Compensation Review Tribunal**

##### **Commencement of amendments**

The amendments made by the proposed Schedule commence on a day or days to be appointed by proclamation.

##### **Amendment of Coal Acquisition (Compensation) Arrangements 1985**

**Schedule 2.1 [1]** amends the *Coal Acquisition (Compensation) Arrangements 1985 (the 1985 Arrangements)* by omitting clauses 4, 5, 6, 26, 26A and 26B as a consequence of the proposed abolition of the Board and the Tribunal.

**Schedule 2.1 [2]** inserts proposed subclause (3B) into clause 29 of the 1985 Arrangements. The new subclause terminates the Tribunal's power to determine an appeal under those Arrangements by remitting the case to the Board.

**Schedule 2.1 [3]** omits Schedule 1 to the 1985 Arrangements as a consequence of the proposed abolition of the Board and Tribunal.

##### **Amendment of Freedom of Information Regulation 2005**

**Schedule 2.2** omits the matter relating to the Board from Schedule 3 to the *Freedom of Information Regulation 2005* as a consequence of the proposed abolition of the Board.

##### **Amendment of Mining Act 1992**

**Schedule 2.3 [1]** amends clause 1 of Schedule 6 to the *Mining Act 1992* so as to enable the regulations under that Act to make provision of a savings or transitional nature consequent on the enactment of the proposed Act.

**Schedule 2.3 [2]** inserts a new Part into Schedule 6 to the *Mining Act 1992*. The new Part contains the following provisions:

(a) a definitions clause,

(b) a provision that formally abolishes the Board and the Tribunal,

(c) a provision that deems the assets of the Board to be assets of the Department of Primary Industries (*the Department*),

(d) a provision that requires the Director-General of the Department to take over the Board's obligations with respect to the preparation of annual reports under the 1985 Arrangements,

(e) a provision that requires the Director-General of the Department to take over the Board's obligations with respect to the handling of existing compensation claims under the 1985 Arrangements,

(f) a provision that requires the Land and Environment Court to take over the Tribunal's obligations with respect to the handling of existing appeals under the 1985 Arrangements,

(g) a provision that enables a person to appeal under the 1985 Arrangements to the Land and Environment Court against decisions by the Board with respect to past compensation claims and decisions by the Director-General of the Department with respect to existing compensation claims,

(h) a provision that requires the Director-General of the Department to take over the Board's obligations with respect to the handling of existing compensation

claims under the 1997 Order,

(i) a provision that requires the Land and Environment Court to take over the Tribunal's obligations with respect to the handling of existing appeals under the 1997 Order,

(j) a provision that enables a person to appeal under the 1997 Order to the Land and Environment Court against decisions by the Board with respect to past compensation claims and decisions by the Director-General of the Department with respect to existing compensation claims,

(k) a provision that requires the Director-General of the Department to take over the Board's obligations with respect to the handling of claims for the granting of coal under the 1990 Act.

**Amendment of Public Finance and Audit Act 1983**

**Schedule 2.4** omits the matter relating to the Board from Schedule 2 to the *Public Finance and Audit Act 1983* as a consequence of the proposed abolition of the Board.