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## Coal Acquisition Legislation Repeal Bill 2007

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### COAL ACQUISITION LEGISLATION REPEAL BILL 2007

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**Bill introduced by Ms Sonia Hornery, on behalf of Mr Nathan Rees.**

#### Agreement in Principle

**Ms SONIA HORNERY** (Wallsend—Parliamentary Secretary) [12.11 p.m.], on behalf of Mr Nathan Rees: I move:  
That this bill be now agreed to in principle.

The Coal Acquisition Legislation Repeal Bill 2007 marks the end of a significant chapter in the history of coal in New South Wales. The bill repeals the legislation relating to the acquisition and restitution of rights with respect to privately owned coal. Five Acts and statutory instruments will be repealed with the passing of this bill. They are the Coal Acquisition Act 1981, the Coal Acquisition (Compensation) Arrangements 1985, the Coal Ownership (Restitution) Act 1990, the Coal Ownership (Restitution) Regulation 2005 and the Coal Acquisition (Re-Acquisition Arrangements) Order 1997.

The Government compulsorily acquired title to coal from private coal owners under the Coal Acquisition Act 1981 in January 1982. These private coal owners, and others who suffered pecuniary loss as a result of the Government's acquisition of titles, were able to claim for their losses. Compensation was calculated under the provisions of the Coal Acquisition (Compensation) Arrangements 1985. Since then approximately 28,000 claims for compensation have been determined under the arrangements. Subsequent to this, the Coal Ownership (Restitution) Act 1990 allowed for the re-vesting of some coal titles in place of compensation. Coal titles that could be re-vested had to be outside a colliery holding as of 1 January 1986 and of no economic benefit to the State. Approximately 1,300 claimants applied for restitution of their coal under this Act.

A further set of amendments was made in 1997 under the Coal Acquisition (Re-Acquisition Arrangements) Order 1997. The 1997 order established the mechanism to calculate compensation for claims arising from the Government's re-acquisition of coal titles, which had previously been restored to private coal owners. Compensation was paid to owners whose coal was reacquired and to owners whose restitution applications were refused. The 1997 order provided also for voluntary acquisition of private coal titles by government through agreement with coal owners. Payment was made to owners on commercial grounds. About 145 owners have applied to voluntarily transfer their coal titles to the State. Government has always been committed to just and equitable compensation for those whose right to coal titles was acquired. The legislation therefore provided for a Coal Compensation Board and a Coal Compensation Review Tribunal to manage the claims process, including compensation determinations and payments, and the review of determinations.

It has not been possible for new claims for compensation to be lodged since July 1994. Repeal of the coal acquisition legislation will bring to an end the role of the Coal Compensation Board and the Coal Compensation Review Tribunal. The Coal Compensation Board has been the independent statutory authority responsible for determining and paying compensation claims made by former private coal owners since 1985. The review tribunal has heard appeals from board determinations. The Coal Compensation Board has presided over more than 30,000 claims for compensation since its inception, and through the legislative changes that impacted on its work.

The review tribunal, the independent authority set up at the same time as the board to hear and adjudicate appeals from the board's determinations, has considered 580 matters since 1985. The board has administered three schemes. Two of these are the compensation schemes under the 1985 arrangements and the 1997 order, and the third is the voluntary acquisition of the coal titles scheme. Since 1985, the board and the tribunal have overseen the payment of almost \$790 million to claimants. The board now has undertaken most of the work it was set up to do. It expects to have considered virtually all eligible claims by 31 December 2007. Consideration can therefore be given to bringing the board and the tribunal to a close.

The net financial benefit to the State from the acquisition of coal titles, after taking into account the \$790 million paid in compensation, is estimated at \$10.5 billion. This is a significant benefit to the State of New South Wales. There also will be a substantial cost saving for government with the closing down of the Coal Compensation Board and the Coal Compensation Review Tribunal now that they have finished their work. Further, the repeal of

the legislation associated with coal acquisition reflects the Government's policy of streamlining and reducing regulation where appropriate.

This leads me to the provisions of the bill before the House. Let me remind the House of the Acts and statutory instruments that will be repealed. They are the Coal Acquisition Act 1981, the Coal Acquisition (Compensation) Arrangements 1985, the Coal Ownership (Restitution) Act 1990, the Coal Ownership (Restitution) Regulation 2005 and the Coal Acquisition (Re-Acquisition Arrangements) Order 1997. The bill will abolish the New South Wales Coal Compensation Board and the New South Wales Coal Compensation Review Tribunal. At the same time, it will commence in stages to allow for a transitional period. The bill ensures that existing claimants' procedural rights are maintained. Any claim made under the 1985 arrangements that has not been settled before the bill is passed will be determined by the Director General of the Department of Primary Industries. The director general will assume all of the functions of the Coal Compensation Board.

On the abolition of the Coal Compensation Review Tribunal, the tribunal's residual jurisdiction will be transferred to the Land and Environment Court. This means that any pending appeals under the 1985 arrangements that have not been decided in the tribunal by the time the repeal bill is enacted will be determined by the Land and Environment Court. Appeals from determinations of the Coal Compensation Board, made before the commencement of the repeal legislation and not dealt with by the tribunal, will be appeals to the Land and Environment Court. Appeals from determinations of the Director General of the Department of Primary Industries, taking on the functions of the Coal Compensation Board, will also be to the Land and Environment Court. Taken together, these provisions ensure that all existing rights of appeal are safeguarded and that nobody will be deprived of his or her procedural rights.

Not only are processes under the 1985 arrangements provided for, but provision is also made for claim applications under the 1997 order. The right to lodge applications for claims under the voluntary acquisition scheme, that is, under the 1997 order, will be repealed once the bill has received assent. However, the repeal bill ensures that existing claimants' procedural rights under the 1997 order are maintained until they are finalised. Any claim that has not been decided before the bill commences will be decided by the Director General of the Department of Primary Industries.

The Government will still have the power under common law contract to acquire coal titles from private holders suffering financial hardship. Removing the present statutory scheme to claim will not prevent any title holder from applying to the State for the voluntary acquisition of a title. It is clear that the repeal of the coal acquisition legislation, the closure of the New South Wales Coal Compensation Board and the New South Wales Coal Compensation Review Tribunal will not deny claimants any of their existing procedural rights. There will be no negative impact on the community as a result of this bill. All claims for compensation for the compulsory acquisition of coal, voluntary acquisition of coal and reacquisition of coal will be finalised, or transitional arrangements will be put in place, to allow the proper determination of residual matters.

Given that it has not been possible for new claims for compensation to be made since July 1994, the time taken to finalise the compensation schemes demonstrates the complex nature of the claims determined by the board. Further, the presence of the tribunal ensured that board determinations were open to rigorous independent scrutiny, guaranteeing equitable compensation outcomes. I thank the members of the Coal Compensation Board and the Coal Compensation Review Tribunal for their work over the years and their contribution to the effective implementation of the coal acquisition legislation. Now that that work has been completed, this repeal bill is timely and appropriate. I commend the bill to the House.

**Debate adjourned on motion by Mr Daryl Maguire and set down as an order of the day for a future day.**

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