

LEGISLATIVE ASSEMBLY

Mine Subsidence Compensation Amendment Bill 2014

First print

Proposed amendments

No. 1 **Funding of works**

Page 2, clause 2, line 5. Omit all words on that line. Insert instead:

- (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.

No. 2 **Form of claims**

Page 3, Schedule 1 [3]. Insert after line 32:

- (1C) A claim under this section is to be made in the form approved by the Board.

No. 3 **Funding of works**

Page 4, Schedule 1. Insert after line 7:

[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.

No. 4 **Funding of works**

Page 4, Schedule 1 [9], proposed section 15 (5) (b), line 16. Insert “or application under section 13A” after “12A”.

No. 5 **Offence penalties**

Page 4, Schedule 1. Insert after line 35:

[10] Section 15 (7) and (8)

Omit “Maximum penalty: 20 penalty units.” wherever occurring.

Insert instead:

Maximum penalty:

- (a) in the case of an individual—100 penalty units, or

(b) in the case of a corporation—500 penalty units.