

LEGISLATIVE COUNCIL

Mine Subsidence Compensation Amendment Bill 2014

Second print

Proposed amendments

No. 1 **Control and direction of Board**

Page 3, Schedule 1. Insert after line 5:

[2] Section 5 Appointment and constitution of the Board

Omit “shall be subject in all respects” from section 5 (1A).

Insert instead “is not subject in any respect”.

No. 2 **Constitution of Board**

Page 3, Schedule 1. Insert after line 5:

[2] Section 5 Appointment and constitution of the Board

Omit section 5 (2). Insert instead:

(2) The Board consists of:

- (a) the Director-General or a member of staff of the Department nominated by the Director-General, and
- (b) a member of staff of the NSW Public Works division of the Office of Finance and Services appointed by the Minister administering the *Public Works and Procurement Act 1912* being a person who is, or is qualified to be, a member of Engineers Australia, and
- (c) the following persons appointed by the Governor:
 - (i) a person nominated by the Minister (who is to be the independent chairperson of the Board), being a person who has not had any contract or arrangement with a proprietor of a colliery holding during the period of 5 years preceding the person’s appointment,
 - (ii) a person nominated by the Minister, being a person who the Minister is satisfied has appropriate expertise in geology and geotechnical engineering,
 - (iii) a person nominated by the Minister, being a person who the Minister is satisfied has appropriate expertise in ecology and natural resource management,

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- (iv) a person nominated by the Minister to represent the owners of improvements situated within mine subsidence districts (other than improvements used in connection with the extraction of coal or shale),
 - (v) a person nominated by the Valuer-General, being a person who the Valuer-General is satisfied has expertise in the determination of land values,
 - (vi) a person nominated by the Association of Mining Related Councils, being a person that the Association is satisfied will represent the interests of local government.

(2AA) If a person has entered into any contract or arrangement with a proprietor of a colliery holding that remains in force, that person is ineligible for appointment under subsection (2) (c) (ii)–(vi).

[3] Section 5 (2A)

Omit “subsection (2) (c) (i), (ii), (iii) or (iv)”.

Insert instead “subsection (2) (c) (v) or (vi)”.

[4] Section 5 (9A)

Insert after section 5 (9):

- (9A) A member of the Board referred to in subsection (2) (c) vacates office if the member enters into any contract or arrangement with a proprietor of a colliery holding.

[5] Section 5 (13)

Insert after section 5 (12):

(13) Transitional

Each person who holds office as a member of the Board under subsection (2) immediately before its substitution by the *Mine Subsidence Compensation Amendment Act 2014*:

- (a) ceases to hold office as such a member on that substitution, and
- (b) is not entitled to any remuneration or compensation because of the loss of that office.

No. 3 **Interest on unpaid contributions**

Page 3, Schedule 1. Insert after line 5:

[2] Section 11 Contributions to be paid by colliery proprietors to Fund

Omit section 11 (5).

No. 4 **Claims for environmental damage**

Page 3, Schedule 1. Insert after line 43:

[5] Section 12AA

Insert after section 12A:

12AA Claims for environmental damage arising out of subsidence

- (1) Claims may be made under this Act for payment from the Fund for compensation for environmental damage to land that arises from subsidence, except where the subsidence is due to operations carried on by the owner of the land.
- (2) A claim under subsection (1) must:

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- (a) be lodged with the Secretary of the Board (in a form approved by the Board) within three months after the day on which the extent of the environmental damage to which the claim relates became apparent to the claimant or, if some other time within which such a claim may be lodged is prescribed by the regulations, within that prescribed time, and
 - (b) specify the location of the land, a description of the environmental damage and the amount claimed, and
 - (c) contain such other particulars as may be prescribed.
- (3) The provisions of section 12 (2) (b) and (5) apply, with all necessary changes, to and in respect of claims and payments under this section in the same manner as they apply to and in respect of notifications and payments under section 12.
- (4) In this section, *environmental damage* to land includes:
- (a) damage to rivers, creeks and other waterways that run through the land, and
 - (b) damage to trees or other vegetation on the land.

[6] Section 12B Appeals

Omit “or 12A”. Insert instead “, 12A or 12AA”.