

COAL ACQUISITION (AMENDMENT) ACT 1990 No. 20

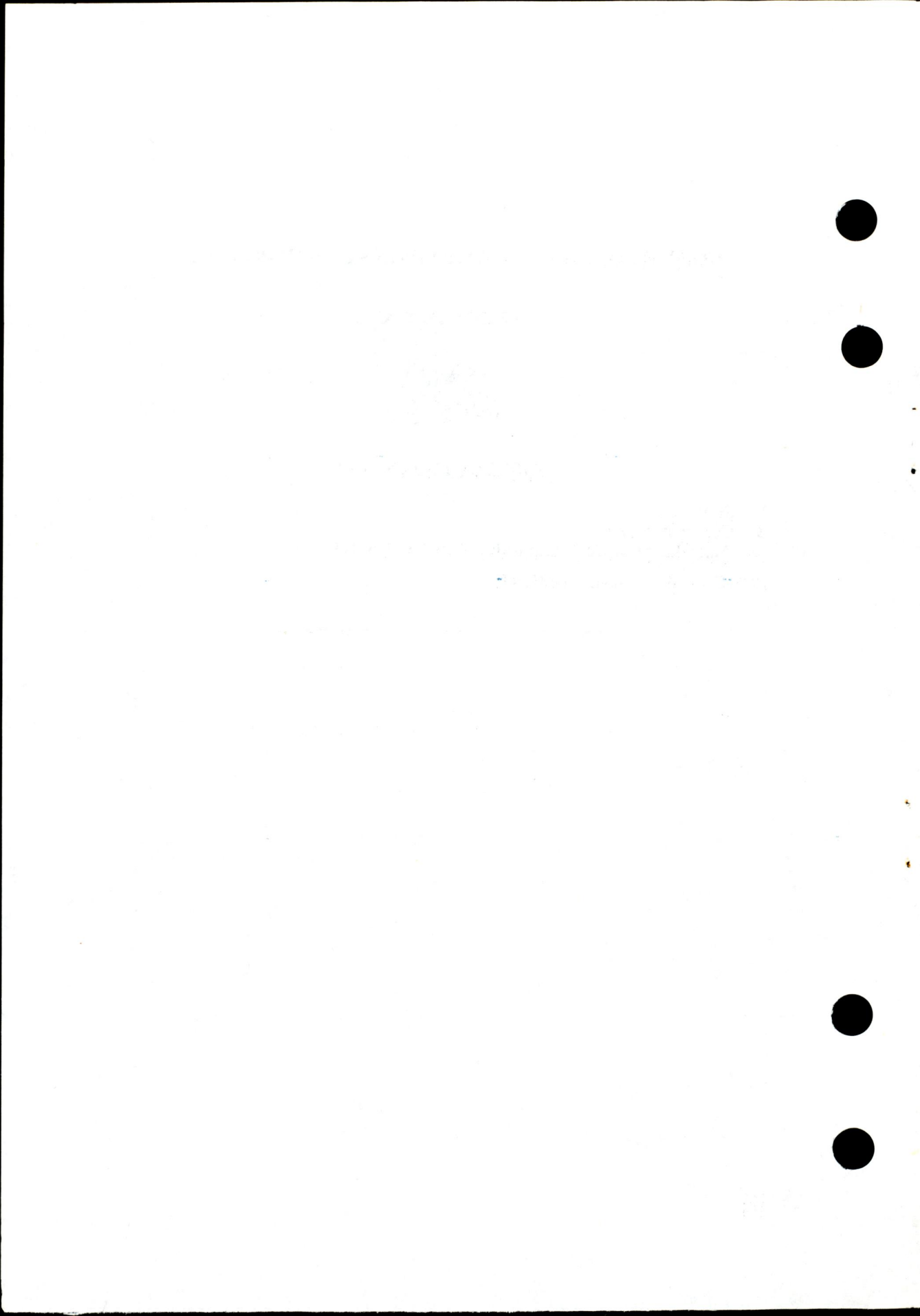
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Coal Acquisition Act 1981 No. 109

SCHEDULE 1 - AMENDMENTS



COAL ACQUISITION (AMENDMENT) ACT 1990 No. 20

NEW SOUTH WALES



Act No. 20, 1990

An Act to amend the Coal Acquisition Act 1981 for the purpose of making further provision with respect to determining the compensation that is to be payable as a result of the operation of that Act. [Assented to 14 June 1990]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Coal Acquisition (Amendment) Act 1990.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Coal Acquisition Act 1981 No. 109

3. The Coal Acquisition Act 1981 is amended as set out in Schedule 1.

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

(1) Section 3 (**Definitions**):

After the definition of "coal" in section 3, insert:

"**relevant proceedings**" means proceedings held in accordance with arrangements made under section 6 for the purpose of determining a case to which subsection (1) of that section applies, and includes the hearing of an appeal from original proceedings held for that purpose.

(2) Section 5 (**Vesting of Coal in the Crown**):

At the end of section 5, insert:

(2) This section does not apply to coal granted under the Coal Ownership (Restitution) Act 1990.

(3) The reference in subsection (1) to leases does not include, and is to be taken never to have included, a reference to coal leases within the meaning of the Coal Mining Act 1973.

SCHEDULE 1 - AMENDMENTS - *continued*

(3) Section 6 (Arrangements by the Governor):

After section 6 (2), insert:

(3) Arrangements under this section may differentiate between the persons to whom compensation is payable as a result of the enactment of this Act by providing that specified persons, or persons of a specified class, are not entitled to be paid more than a specified sum or specified sums of money in respect of coal vested in the Crown by the operation of section 5, irrespective of the amount of coal that they owned immediately before the commencement of this Act.

(4) Arrangements under this section may:

- (a) authorise the person presiding over relevant proceedings to issue a summons to a person requiring the person to appear at the proceedings for the purpose of giving evidence, or of producing documents specified in the summons, relevant to the determination of the proceedings, or both; and
- (b) provide for the taking in the proceedings of evidence on oath before the person presiding over the proceedings.

(4) Sections 7, 8:

After section 6, insert:

Failure to attend relevant proceedings etc.

7. (1) A person is guilty of an offence if:

- (a) arrangements in force under section 6 authorise the issue of summonses requiring attendance at relevant proceedings for a purpose specified in section 6 (4); and
- (b) the person:
 - (i) having been served with such a summons, fails without reasonable excuse to comply with the summons; or

SCHEDULE 1 - AMENDMENTS - *continued*

- (ii) having complied with the summons, fails without reasonable excuse to answer a question put to the person by the person presiding over the relevant proceedings concerned.
- (2) A person is guilty of an offence if:
 - (a) arrangements in force under section 6 provide for evidence in relevant proceedings to be taken on oath; and
 - (b) the person, having appeared in such proceedings for the purpose of giving evidence, fails without reasonable excuse to take an oath in accordance with a requirement to do so imposed by the person presiding over the proceedings.
- (3) A person who in any relevant proceedings gives evidence that the person knows to be false or misleading in a material respect is guilty of an offence.

Maximum penalty: 20 penalty units.

Proceedings for offences

8. Proceedings for an offence against this Act are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

[*Minister's second reading speech made in -
Legislative Assembly on 16 May 1990
Legislative Council on 30 May 1990*]

FIRST PRINT

COAL ACQUISITION (AMENDMENT) BILL 1990

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Coal Ownership (Restitution) Bill 1990.

The object of this Bill is to amend the Coal Acquisition Act 1981 for the purpose of making further provision with respect to determining cases in which compensation is to be payable in consequence of the operation of that Act. In particular, the Bill will enable limits to be placed on the amounts of compensation that are payable under arrangements made under section 6 of that Act to specified persons or persons of a specified class.

In addition, the Bill will empower a person presiding over proceedings held for the purpose of determining claims for compensation under those arrangements to issue summonses to persons to attend the proceedings to give evidence or to produce specified documents that are relevant to those proceedings.

Clause 1 specifies the short title to the proposed Act.

Clause 2 provides for the proposed Act to commence on a day or days to be appointed by proclamation.

Clause 3 gives effect to Schedule 1 which contains amendments to the Coal Acquisition Act 1981.

SCHEDULE 1 - AMENDMENTS

Schedule 1 (1) amends section 3 of the Principal Act (Definitions) by inserting in that Act a definition of "relevant proceedings". ("Relevant proceedings" are proceedings held for the purpose of determining compensation claims.)

Schedule 1 (2) amends section 5 of the Principal Act (Vesting of coal in the Crown). The amendment makes it clear that the section will not operate so as to vest

Coal Acquisition (Amendment) 1990

in the Crown coal granted under the proposed Coal Ownership (Restitution) Act 1990. It is also made clear that the section did not have the effect of discharging coal leases to which the coal vested in the Crown was subject immediately before 1 January 1982 (which was the date on which the Principal Act commenced).

Schedule 1 (3) amends section 6 of the Principal Act (Arrangements by the Governor) so as to enable arrangements under the section to discriminate between claimants under the arrangements by providing for limits to the amounts that specified claimants, or claimants of a specified class, may claim. The amendment will also empower the person presiding over proceedings to determine a claim for compensation under the arrangements:

- (a) to issue a summons requiring a person specified in the summons to attend to give evidence, or to produce specified documents, at the proceedings; and
- (b) to take evidence in the proceedings on oath.

Schedule 1 (4) inserts into the Principal Act proposed section 7 which will create a number of offences. For instance, if arrangements in force under section 6 of the Principal Act authorise the issue of summonses requiring attendance at relevant proceedings for the purpose of giving evidence or producing documents in those proceedings, it will be an offence, punishable by a fine not exceeding 20 penalty units (\$2,000) for a person to whom a summons is issued under the arrangements to fail without reasonable excuse to comply with the summons. Schedule 1 (4) also inserts into the Principal Act proposed section 8 which will confer jurisdiction on a Local Court to deal with an offence under that Act.

FIRST PRINT

COAL ACQUISITION (AMENDMENT) BILL 1990

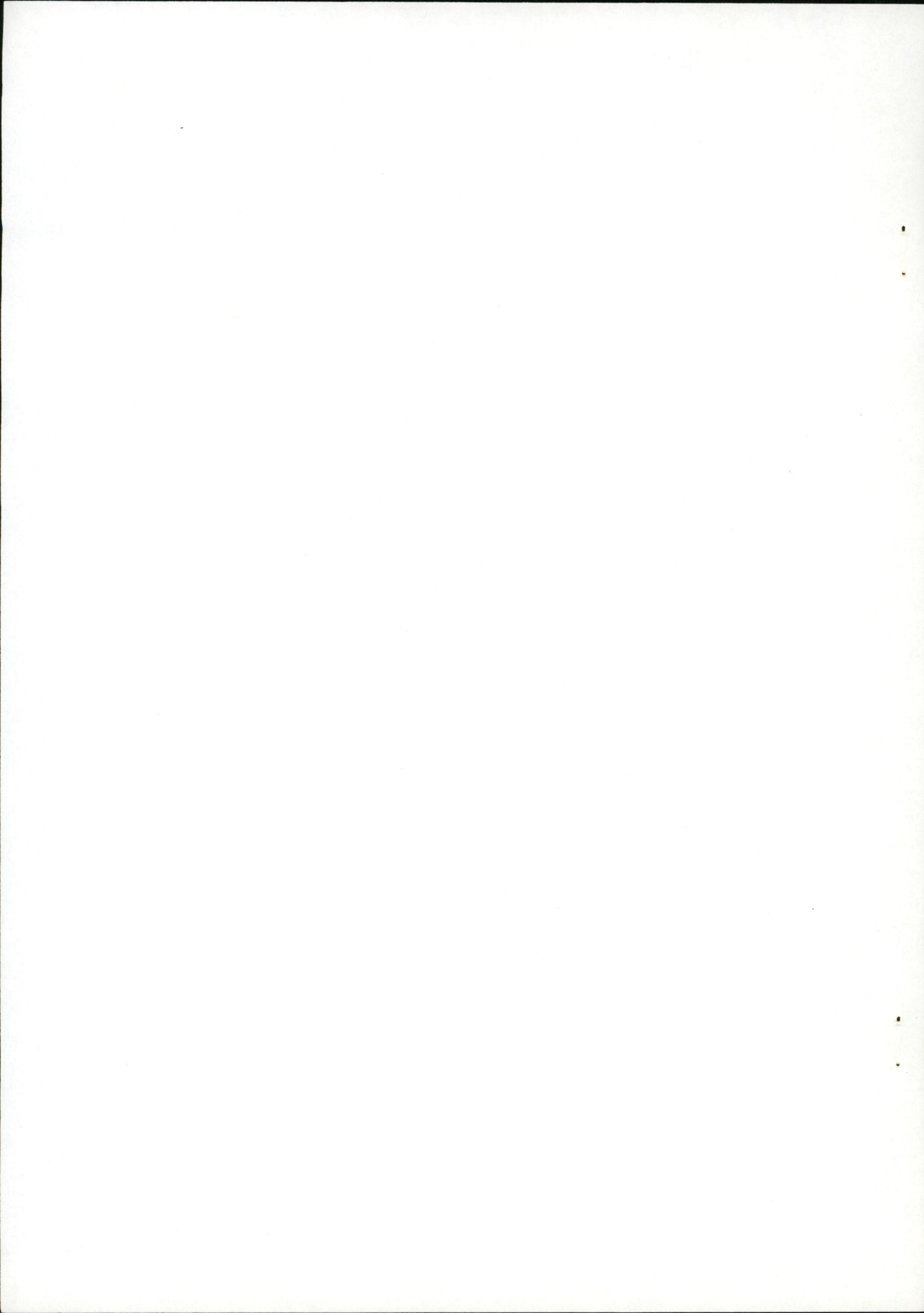
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Coal Acquisition Act 1981 No. 109

SCHEDULE 1 - AMENDMENTS



COAL ACQUISITION (AMENDMENT) BILL 1990

NEW SOUTH WALES



No. , 1990

A BILL FOR

An Act to amend the Coal Acquisition Act 1981 for the purpose of making further provision with respect to determining the compensation that is to be payable as a result of the operation of that Act.

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Coal Acquisition (Amendment) Act 1990.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Coal Acquisition Act 1981 No. 109

3. The Coal Acquisition Act 1981 is amended as set out in Schedule 1.

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

(1) Section 3 (**Definitions**):

After the definition of "coal" in section 3, insert:

"**relevant proceedings**" means proceedings held in accordance with arrangements made under section 6 for the purpose of determining a case to which subsection (1) of that section applies, and includes the hearing of an appeal from original proceedings held for that purpose.

(2) Section 5 (**Vesting of Coal in the Crown**):

At the end of section 5, insert:

(2) This section does not apply to coal granted under the Coal Ownership (Restitution) Act 1990.

(3) The reference in subsection (1) to leases does not include, and is to be taken never to have included, a reference to coal leases within the meaning of the Coal Mining Act 1973.

SCHEDULE 1 - AMENDMENTS - *continued*

(3) Section 6 (**Arrangements by the Governor**):

After section 6 (2), insert:

(3) Arrangements under this section may differentiate between the persons to whom compensation is payable as a result of the enactment of this Act by providing that specified persons, or persons of a specified class, are not entitled to be paid more than a specified sum or specified sums of money in respect of coal vested in the Crown by the operation of section 5, irrespective of the amount of coal that they owned immediately before the commencement of this Act.

(4) Arrangements under this section may:

- (a) authorise the person presiding over relevant proceedings to issue a summons to a person requiring the person to appear at the proceedings for the purpose of giving evidence, or of producing documents specified in the summons, relevant to the determination of the proceedings, or both; and
- (b) provide for the taking in the proceedings of evidence on oath before the person presiding over the proceedings.

(4) Sections 7, 8:

After section 6, insert:

Failure to attend relevant proceedings etc.

7. (1) A person is guilty of an offence if:

- (a) arrangements in force under section 6 authorise the issue of summonses requiring attendance at relevant proceedings for a purpose specified in section 6 (4); and
- (b) the person:
 - (i) having been served with such a summons, fails without reasonable excuse to comply with the summons; or

SCHEDULE 1 - AMENDMENTS - *continued*

- (ii) having complied with the summons, fails without reasonable excuse to answer a question put to the person by the person presiding over the relevant proceedings concerned.
- (2) A person is guilty of an offence if:
- (a) arrangements in force under section 6 provide for evidence in relevant proceedings to be taken on oath; and
 - (b) the person, having appeared in such proceedings for the purpose of giving evidence, fails without reasonable excuse to take an oath in accordance with a requirement to do so imposed by the person presiding over the proceedings.
- (3) A person who in any relevant proceedings gives evidence that the person knows to be false or misleading in a material respect is guilty of an offence.

Maximum penalty: 20 penalty units.

Proceedings for offences

8. Proceedings for an offence against this Act are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.
