

**MINE SUBSIDENCE COMPENSATION (AMENDMENT) ACT  
1992 No. 64**

**NEW SOUTH WALES**



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Mine Subsidence Compensation Act 1961 No. 22

**SCHEDULE 1—AMENDMENTS**

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**MINE SUBSIDENCE COMPENSATION (AMENDMENT) ACT  
1992 No. 64**

NEW SOUTH WALES



**Act No. 64, 1992**

An Act to amend the Mine Subsidence Compensation Act 1961 with respect to the definition of subsidence, the damage for which compensation is payable and certificates relating to claims; and for other purposes. [Assented to 3 November 1992]

*Mine Subsidence Compensation (Amendment) Act 1992 No. 64*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Mine Subsidence Compensation (Amendment) Act 1992.

**Commencement**

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

**Amendment of Mine Subsidence Compensation Act 1961 No. 22**

3. The Mine Subsidence Compensation Act 1961 is amended as set out in Schedule 1.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

(1) Long title:

After "improvements on the surface", insert "or household effects".

(2) Section 4 (Definitions):

(a) After the definition of "Fund", insert:

**"Household or other effects"** means any chattels (for example, carpets, curtains, furniture, electrical appliances, musical instruments, computers or power tools) whether or not in or used in a house, but does not include motor vehicles, boats or aircraft or any other prescribed thing.

(b) In the definition of "Subsidence", after "actual subsidence)", insert ", but does not include vibrations or other movements of the ground that are due to blasting operations in an open cut mine and that do not result in actual subsidence".

(3) Section 12 (Claims for damage arising out of subsidence):

(a) Omit section 12 (1) (a), insert instead:

(a) compensation for any damage to improvements that arises from subsidence, except where the subsidence is due to operations carried on by the owner of the improvements;

*Mine Subsidence Compensation (Amendment) Act 1992 No. 64*

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SCHEDULE 1—AMENDMENTS—*continued*

- (b) After section 12 (1) (c), insert:
- (d) compensation for any damage to household or other effects that arises from subsidence, except where the subsidence is due to operations carried on by the owner of the household or other effects.
- (c) From section 12 (2) (a), omit “improvement which has”, insert instead “improvement or any household or other effects which have”.
- (d) After “improvement damaged;” in section 12 (2) (a), insert “the description of the household or other effects damaged;”.
- (4) Sections 12 (1A), (5), 12A (1) (b), 13 (2) (b), 13A, 14 (1), 14A (2):
- After “improvements” wherever occurring, insert “or household or other effects”.
- (5) Section 12A (**Claims arising out of actions to prevent or mitigate damage**):
- (a) From section 12A (1) (b), omit “(other than buildings or works used in connection with the winning of coal or shale)”.
  - (b) After “place” in section 12A (1) (b), insert “, other than a subsidence due to operations carried on by the owner”.
  - (c) In section 12A (2) (c), after “improvements”, insert “, or the description of the household or other effects,”.
- (6) Section 15C (**Certificates of compensation claims paid**):
- (a) From section 15C (1), omit “made”, insert “paid, or was pending,”.
  - (b) After “improvement” in section 15C (1), insert “or any household or other effects”.
  - (c) After “improvement” in section 15C (2), insert “or the household or other effects”.
- (7) Section 21:
- After section 20, insert:
- Savings, transitional and other provisions**
21. Schedule 1 has effect.

*Mine Subsidence Compensation (Amendment) Act 1992 No. 64*

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SCHEDULE 1—AMENDMENTS—*continued*

(8) Schedule 1:

After section 21, insert:

**SCHEDULE 1—SAVINGS, TRANSITIONAL AND  
OTHER PROVISIONS**

**Part 1—Provisions consequent on the enactment of  
the Mine Subsidence Compensation (Amendment)  
Act 1992**

(Sec. 21)

**Operation of amendments**

1. (1) The amendments made by the Mine Subsidence Compensation (Amendment) Act 1992 apply only to damage that occurs after the commencement of each such amendment, except as provided by subclause (2).

(2) The amendment made by Schedule 1 (6) (a) to the Mine Subsidence Compensation (Amendment) Act 1992 to section 15C of this Act extends so as to apply in relation to damage that occurred before the commencement of that amendment. The amendment also extends to an application for a certificate that is pending as at the commencement of the amendment.

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*[Minister's second reading speech made in—  
Legislative Assembly on 15 October 1992  
Legislative Council on 28 October 1992]*

**Mine Subsidence Compensation (Amendment) Bill**

**Second Reading**

The Hon. Virginia Chadwick (Minister for Education and Youth Affairs, and Minister for Employment and Training):

I move:

That this Bill be now read a second time.

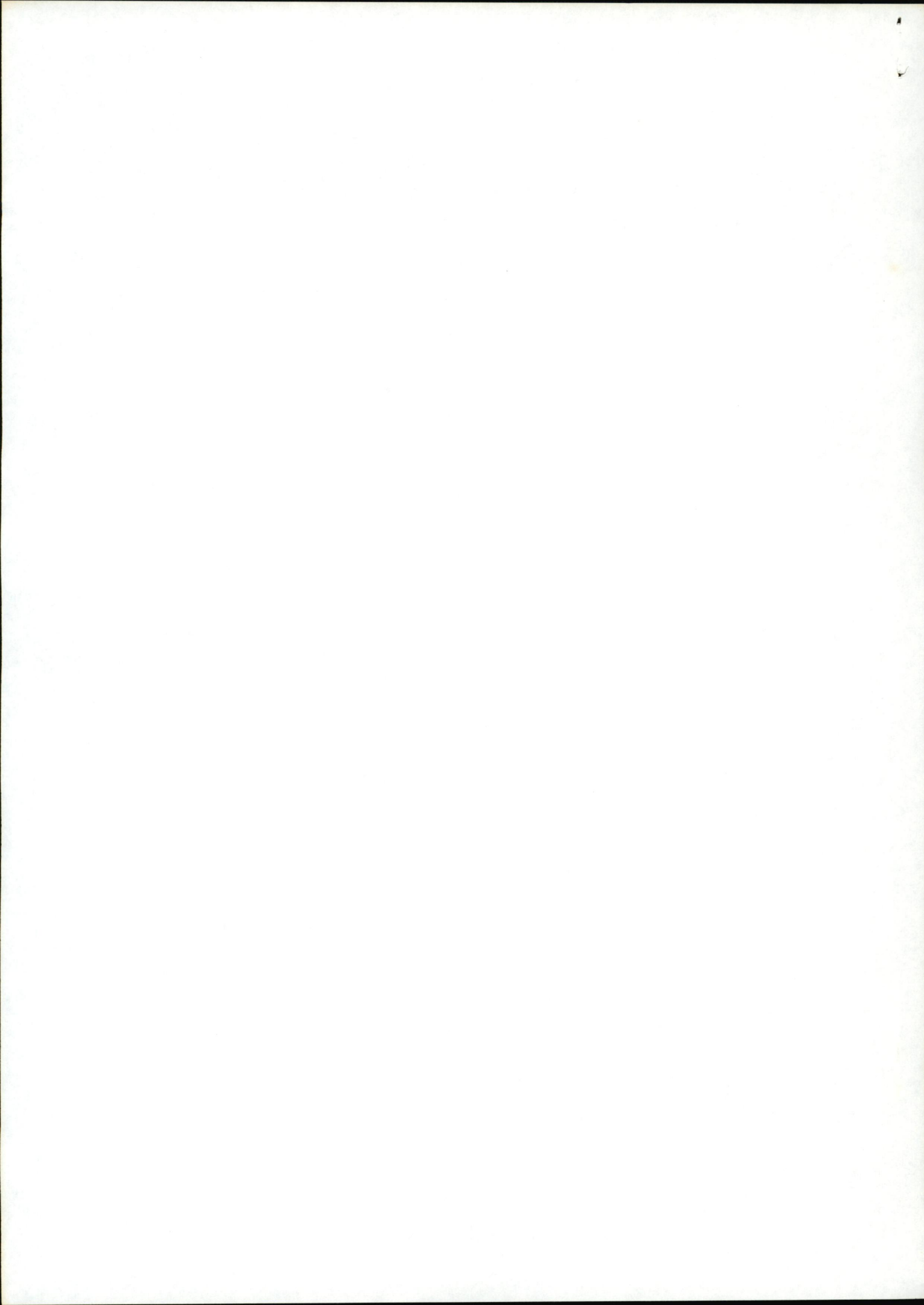
I see leave to have the second reading speech incorporated in Hansard.

Mr President,

The Mine Subsidence Compensation Act 1961 provides for payment of compensation where improvements to land are damaged by subsidence due to extraction of or prospecting for coal or oil shale.

Compensation payments are made from the Mine Subsidence Compensation Fund which is funded by annual contributions from proprietors of colliery holdings.

The Mine Subsidence Board has regular consultations with residents in subsidence areas. It has over many years built





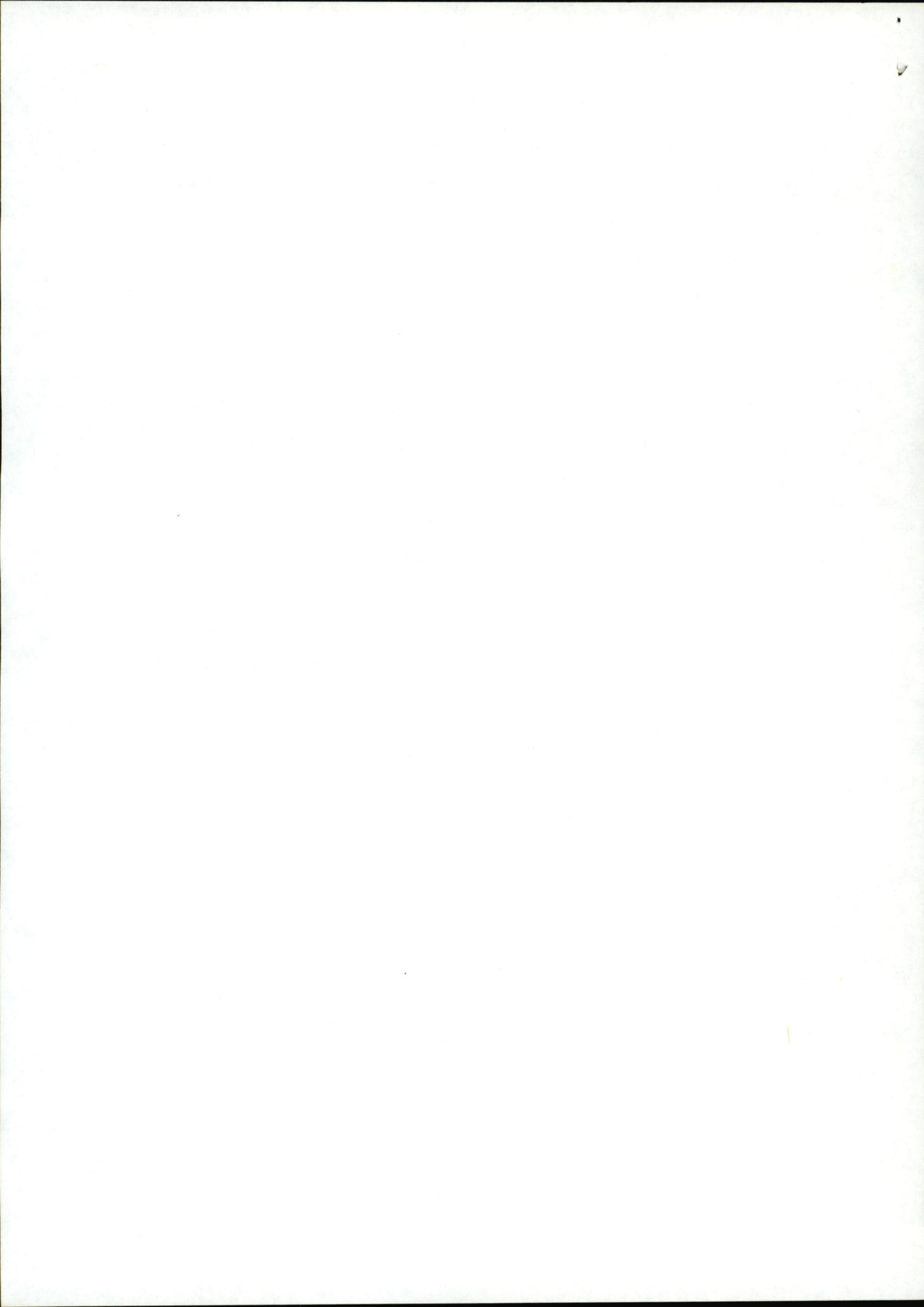
up working relationships with such residents. Indeed, it provides sound technical advice to persons building homes in areas likely to be affected by subsidence. It also assists people whose homes, unfortunately, have been damaged by subsidence.

Most of the amendments contained in this Bill are the result of difficulties experienced with existing legislation when trying to assist homeowners whose properties have been affected.

Improvements are defined in the Act to include "any building or work erected or constructed on land; any formed road, street path, walk or driveway; any pipeline, water, sewer, telephone, gas or other service pipeline, whether above or below the surface of the land".

This definition is consistent with the traditional philosophy of the Act which was to provide compensation to the owner of improvements which have been damaged by mine subsidence.

The principal improvement concerned is a dwelling house. Previously it was not conceded that non-improvements in dwellings could be damaged by mine subsidence.



Following events at Chain Valley Bay and South Cessnock, the Mine Subsidence Board has changed its views. At those locations, the surface of the land was lowered to such an extent that flood waters entered dwelling houses and damaged items which are not improvements but rather are household and personal effects such as carpets, furniture.

Under the existing legislation, damage caused by flooding which in itself has been caused by mine subsidence is compensable. However, it is restricted to improvements. Items of furniture, appliances and other personal effects cannot be compensated.

The amendment before the House will extend compensation to household effects. These are defined and will include curtains and carpets, and to bring it right up to date, musical instruments, computers and power tools.

The current Act excludes from compensation damage to buildings or works used in connection with the winning of coal or shale.

A number of colliery proprietors have raised this issue in the context of improvements owned by one colliery which are damaged by the mining operations of another colliery, for example, a water supply line to a colliery damaged by subsidence from the operations of another colliery.



The Bill will abolish the existing exclusion.

The Bill amends the definition of subsidence. Legal advice received is to the effect that the existing definition of subsidence would include ground vibrations emanating from blasting in open cut coal mines. This is an unintended consequence as a result of a 1989 amendment to the Act.

The amendment before the house will exclude subsidence due to ground vibrations from blasting in open cut coal mines from the definition.

No-one will be disadvantaged by this amendment. Mining companies are already responsible for payment of compensation for damage in such cases. This is required by section 265 of the Mining Act 1992. Also, many mining leases contain special conditions to this effect.

I turn now to section 15C certificates. These certificates state whether or not, on a specified date, any claim for compensation under the Act has been made in respect of a specific property.

Some community groups and the Honourable Member for Wallsend have raised the issue of these certificates in the context of them being a "black mark" against a property offered for sale.



I believe there should be full disclosure of any defects caused by subsidence. However if damage has not been caused by mine subsidence it is misleading and most unfair to the vendor to disclose on a section 15C certificate that claims have been made.

The amendment before the House will amend section 15C so that in future the certificates will state whether compensation has been paid for claims on the property and whether or not a claim is pending.

Mr President, the matters contained in this Bill will provide for a better scheme of compensation. I know they will be welcomed by residents of subsidence areas.

I commend the Bill to the House.





FIRST PRINT

**MINE SUBSIDENCE COMPENSATION (AMENDMENT) BILL  
1992**

NEW SOUTH WALES



**EXPLANATORY NOTE**

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

The Mine Subsidence Compensation Act 1961 provides a scheme for the payment of compensation where improvements to land (including buildings, roads and service mains) are damaged by subsidence due to the extraction of, or prospecting for, coal or oil shale. Compensation payments are made from the Mine Subsidence Compensation Fund which is funded by annual contributions from proprietors of colliery holdings.

The object of this Bill is to amend the Act:

- (a) to extend the circumstances in which compensation will be granted by providing for compensation for damage to household or other effects; and
- (b) to remove the exemption preventing the payment of compensation for damage to buildings or works used in connection with the winning of coal or shale where the damage is caused by other colliery holdings; and
- (c) to exclude from the definition of subsidence ground vibrations resulting from blasting in open cut coal mines that does not result in actual subsidence; and
- (d) to clarify the nature of the information that is to be included in certificates relating to compensation claims issued under section 15C of the Act.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be proclaimed.

Clause 3 gives effect to the Schedule of amendments to the Mine Subsidence Compensation Act 1961.

Schedule 1 makes the amendments to the Mine Subsidence Compensation Act 1961 described below.

*Mine Subsidence Compensation (Amendment) 1992*

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**Damage to household or other effects (Schedule 1 (1), (2) (a), (3), (4), (5) (c), 6 (b) and (c))**

Section 12 (1) (a) provides for claims to be paid from the Fund for damage to improvements and for expenses related to that damage. Improvements are defined to include buildings, roads and service mains. Mine subsidence may cause flooding which may, in addition to damaging buildings (which are within the definition of improvements), damage other items, particularly household effects such as carpet, furniture or electrical appliances (none of which are covered by the definition). The object of the amendment to section 12 is to provide that compensation is payable for damage to such items arising from subsidence. The proposed Act also makes consequential changes to other provisions relating to claims for damage.

**Damage to buildings or works used in winning coal or shale (Schedule 1 (3) (a) and (5) (a) and (b))**

Section 12 excludes from compensation damage to buildings or works used in connection with the winning of coal or shale. Compensation is not available for damage to buildings or works at a colliery that are damaged by subsidence from the operation of another colliery. The amendment to section 12 (1) (a) removes the exclusion, allowing for compensation to be payable for damage to any improvement regardless of its use, as long as it is not owned by the same person whose operations caused the subsidence. Section 12A is amended to remove the exclusion in relation to claims for expenses incurred in preventing or mitigating damage to such buildings.

**Vibrations due to blasting from open cut mines (Schedule 1 (2) (b))**

Currently the definition of subsidence includes all vibrations or other movements of the ground related to the extraction of, or prospecting for, coal or shale. The object of the amendment to section 4 is to exclude damage due to ground vibrations from blasting in open cut coal mines from the definition (so long as the vibrations do not cause actual subsidence). Mining companies are responsible for payment of compensation for damage in such cases, pursuant to Division 1 of Part 13 of the Mining Act 1992. Also, many mining leases contain special conditions to this effect.

**Certificates of claims for compensation (Schedule 1 (6) (a))**

Section 15C enables an application to be made to the Board for the issue of a certificate stating whether or not any claim for compensation under the Act has been made in respect of any improvement specified in the application. Such a certificate may, for example, be sought by a prospective purchaser of a house or other building in a mine subsidence district. Currently the application for a certificate requests information as to whether or not any claims have been made. The object of the amendment to section 15C is to make it clear that information is to be provided about claims that have been paid or any pending claims.

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**SCHEDULE 1—AMENDMENTS**

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**MINE SUBSIDENCE COMPENSATION (AMENDMENT) BILL  
1992**

NEW SOUTH WALES



No. , 1992

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**A BILL FOR**

An Act to amend the Mine Subsidence Compensation Act 1961 with respect to the definition of subsidence, the damage for which compensation is payable and certificates relating to claims; and for other purposes.

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*Mine Subsidence Compensation (Amendment) 1992*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Mine Subsidence Compensation (Amendment) Act 1992.

**5 Commencement**

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

**Amendment of Mine Subsidence Compensation Act 1961 No. 22**

3. The Mine Subsidence Compensation Act 1961 is amended as set out in Schedule 1.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

(1) Long title:

15           After “improvements on the surface”, insert “or household effects”.

(2) Section 4 (**Definitions**):

(a) After the definition of “Fund”, insert:

20           **“Household or other effects”** means any chattels (for example, carpets, curtains, furniture, electrical appliances, musical instruments, computers or power tools) whether or not in or used in a house, but does not include motor vehicles, boats or aircraft or any other prescribed thing.

25           (b) In the definition of “Subsidence”, after “actual subsidence)”, insert “, but does not include vibrations or other movements of the ground that are due to blasting operations in an open cut mine and that do not result in actual subsidence”.

*Mine Subsidence Compensation (Amendment) 1992*SCHEDULE 1—AMENDMENTS—*continued*

- (3) Section 12 (Claims for damage arising out of subsidence):
- (a) Omit section 12 (1) (a), insert instead:
- (a) compensation for any damage to improvements that arises from subsidence, except where the subsidence is due to operations carried on by the owner of the improvements; 5
- (b) After section 12 (1) (c), insert:
- (d) compensation for any damage to household or other effects that arises from subsidence, except where the subsidence is due to operations carried on by the owner of the household or other effects. 10
- (c) From section 12 (2) (a), omit “improvement which has”, insert instead “improvement or any household or other effects which have”. 15
- (d) After “improvement damaged;” in section 12 (2) (a), insert “the description of the household or other effects damaged;”.
- (4) Sections 12 (1A), (5), 12A (1) (b), 13 (2) (b), 13A, 14 (1), 14A (2):
- After “improvements” wherever occurring, insert “or household or other effects”. 20
- (5) Section 12A (Claims arising out of actions to prevent or mitigate damage):
- (a) From section 12A (1) (b), omit “(other than buildings or works used in connection with the winning of coal or shale)”. 25
- (b) After “place” in section 12A (1) (b), insert “, other than a subsidence due to operations carried on by the owner”.
- (c) In section 12A (2) (c), after “improvements”, insert “, or the description of the household or other effects,”. 30
- (6) Section 15C (Certificates of compensation claims paid):
- (a) From section 15C (1), omit “made”, insert “paid, or was pending,”.
- (b) After “improvement” in section 15C (1), insert “or any household or other effects”. 35
- (c) After “improvement” in section 15C (2), insert “or the household or other effects”.

*Mine Subsidence Compensation (Amendment) 1992*

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**SCHEDULE 1—AMENDMENTS—*continued***

(7) Section 21:

After section 20, insert:

**Savings, transitional and other provisions**

5           21. Schedule 1 has effect.

(8) Schedule 1:

After section 21, insert:

**SCHEDULE 1—SAVINGS, TRANSITIONAL AND  
OTHER PROVISIONS**

10           **Part 1—Provisions consequent on the enactment of  
the Mine Subsidence Compensation (Amendment)  
Act 1992**

(Sec. 21)

**Operation of amendments**

15           1. (1) The amendments made by the Mine Subsidence  
Compensation (Amendment) Act 1992 apply only to damage  
that occurs after the commencement of each such  
amendment, except as provided by subclause (2).

20           (2) The amendment made by Schedule 1 (6) (a) to the  
Mine Subsidence Compensation (Amendment) Act 1992 to  
section 15C of this Act extends so as to apply in relation to  
damage that occurred before the commencement of that  
amendment. The amendment also extends to an application  
25           for a certificate that is pending as at the commencement of  
the amendment.

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