
c2024-118E
Ind (JH)--Independent (Judy Hannan)

LEGISLATIVE ASSEMBLY

Coal Mine Subsidence Compensation Amendment Bill 2024

First print

Proposed amendments

- No. 1 **Rebuttable presumption**
Page 3, Schedule 1. Insert after line 12—
 [2A] Section 6A
 Insert after section 6—
 6A Presumption that damage is caused by subsidence
 A person making a claim for subsidence damage is entitled to a rebuttable presumption that the damage is subsidence damage.
- No. 2 **Planned improvements**
Page 3, Schedule 1[5], proposed section 7(2)(a), line 31. Insert “or planned” after “existing”.
- No. 3 **Planned improvements**
Page 3, Schedule 1[5], proposed section 7(2)(a), line 32. Insert “that are required by the Chief Executive” after “goods,”.
- No. 4 **Liability for compensation**
Page 3, Schedule 1[6], line 34. Omit all words on the line. Insert instead—
 Omit section 8(1)(a). Insert instead—
 (a) by the Chief Executive from the Fund—in relation to compensation arising from an active coal mine, and
- No. 5 **Liability for compensation**
Page 3, Schedule 1. Insert after line 34—
 [6A] Section 8(4)
 Insert after section 8(3)—
 (4) For the avoidance of doubt, the Chief Executive may recover an amount paid to a person under subsection 8(1)(a) from the proprietor of an active coal mine as a debt due to the Crown if the payment was made to prevent, mitigate or repair subsidence damage caused by the active coal mine.

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- No. 6 **Limitation on claims**
Page 4, Schedule 1[7], proposed section 9(1)(c), line 3. Insert “substantially” after “damage is”.
- No. 7 **Liability for compensation**
Page 4, Schedule 1. Insert after line 4—
 [7A] Section 9(1A)
 Insert after section 9(1)—
 (1A) The amount of compensation referred to in subsection (1) must be sufficient to replace the improvement with a similar improvement that performs the same functions as the original improvement.
- No. 8 **Limitation on claims**
Page 4, Schedule 1[9], lines 11 and 12. Omit all words on the lines. Insert instead—
 Omit section 10(1).
- No. 9 **Liability for compensation**
Page 5, Schedule 1. Insert after line 24—
 [16A] Section 13(2)
 Omit section 13(2) and (3). Insert instead—
 (2) A claim must be determined within the following periods—
 (a) in relation to liability—within 3 months of the claim being lodged under section 11, or
 (b) in relation to the amount of compensation payable—
 (i) within 3 months of the claim being lodged under section 11, or
 (ii) if the extent of the damage to improvements or goods is unable to be ascertained due to ongoing subsidence at the property—within 12 months of the claim being lodged under section 11.
 (3) A failure to determine a claim within the period referred to in subsection (2)(a) is taken, for the purposes of this part, to be an acceptance of liability for the claim.
- No. 10 **Approved procedures**
Page 5, Schedule 1[17], proposed section 14(2), line 27. Omit “may”. Insert instead “must”.
- No. 11 **Approved procedures**
Page 5, Schedule 1[17], proposed section 14(2)(g), line 40. Omit all words on the line. Insert instead—
 (g) the assessment of claims with regard to the presumption under section 6A,
 (h) the timing for the assessment of claims with regard to section 13,
 (i) another matter prescribed by the regulations.
- No. 12 **Review of claims**
Page 6, Schedule 1. Insert after line 3—
 [19A] Section 15(2)
 Omit “3 months”. Insert instead “6 months”.
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No. 13

Review of claims

Page 6, Schedule 1. Insert after line 3—

[19B] Section 15(5A)

Insert after section 15(5)—

- (5A) If a claim made by a claimant is allowed as a result of a review under this section, the claimant may recover the costs associated with the review from the Chief Executive.

No. 14

Appeals to the Land and Environment court

Page 6, Schedule 1. Insert after line 7—

[21A] Section 16(4)

Insert after section 16(3)—

- (4) For the avoidance of doubt—
- (a) the proprietor of an active coal mine is not a party to proceedings initiated under this section by a person claiming compensation under this Act, and
 - (b) a person claiming compensation under this Act is not a party to proceedings initiated under this section by the proprietor of an active coal mine.

No. 15

Approvals for development within mine subsidence districts

Page 6, Schedule 1. Insert after line 27—

[29A] Section 22(10)

Insert after section 22(9)—

- (10) The costs, if any, that an applicant incurs as a result of complying with a condition of an approval given under this section must be paid by the proprietor of an active coal mine if the Chief Executive imposed the condition because the active coal mine may cause subsidence damage to the proposed improvements.

No. 16

Review by Secretary of certain temporary action directions

Page 9, Schedule 1. Insert after line 30—

[42A] Section 28 Review by Secretary of certain temporary action directions

Omit “Executive.” from section 28(3)(b). Insert instead—

- Executive,
- (c) if the direction involves the carrying out of works on land—the owner of the land.

No. 17

Pre-mining inspections

Page 10, Schedule 1[45], proposed section 31A. Insert after line 21—

- (5) If a report is produced as a result of a pre-mining inspection, the Chief Executive must not provide the report to the proprietor of an active coal mine without—
- (a) the consent of the landowner, or
 - (b) an order of a court requiring the Chief Executive to provide a copy of the report to the proprietor.

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- No. 18 **Requests for information**
Page 10, Schedule 1[45], proposed section 31B(1), line 23. Omit “person”. Insert instead “proprietor of an active coal mine”.
- No. 19 **Requests for information**
Page 10, Schedule 1[45], proposed section 31B(1), line 24. Omit “person”. Insert instead “proprietor”.
- No. 20 **Requests for information**
Page 10, Schedule 1[45], proposed section 31B(4), line 33. Omit “person”. Insert instead “proprietor of an active coal mine”.
- No. 21 **Requests for information**
Page 10, Schedule 1[45], proposed section 31B, insert after line 36—
 (4A) In this section—
 proprietor of an active coal mine includes a former proprietor of an active coal mine.
- No. 22 **Inspections**
Page 11, Schedule 1[49], lines 5 and 6. Omit all words on the lines. Insert instead—
 Omit the section.
- No. 23 **Regulations**
Page 11, Schedule 1. Insert after line 6—
 [49A] Section 43 Power to enter premises without consent
 Insert after section 43(3)—
 (4) In this section—
 premises means an active coal mine or any premises associated with the management of an active coal mine.
- No. 24 **Regulations**
Page 11, Schedule 1. Insert after line 12—
 [52A] Section 51 Regulations
 Insert after section 51(1)—
 (1A) Before the Minister recommends to the Governor that a regulation be made, the Minister must—
 (a) give a draft of the regulation to all landowners who will be subject to the operation of the regulation, if any, and
 (b) give the landowners at least 30 days to make submissions to the Chief Executive.