



New South Wales

Coal Mine Subsidence Compensation Amendment Bill 2024

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Coal Mine Subsidence Compensation Act 2017* (*the Act*) to update the Act as a result of the 2023 statutory review.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

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

Schedule 1 **Amendment of Coal Mine Subsidence Compensation Act 2017 No 37**

Schedule 1[1], [3], [6], [13], [31], [46] and [47] provide for consistent terminology when referring to damage arising from subsidence.

Schedule 1[2] inserts definitions for *assessment report*, *mining operations*, *pre-mining inspection* and *subsidence damage* and omits the definition of *preventative or mitigative expense*. Schedule 1[7]–[9] make consequential amendments.

Schedule 1[4] and [5] clarify the following—

- (a) reasonable compensation for accommodation expenses is payable to the lessee of a building while it is uninhabitable due to damage arising from subsidence,

- (b) compensation for expenses incurred, or proposed to be incurred, by an owner of existing improvements or goods to prevent or mitigate damage arising from subsidence to the improvements or goods, is only payable if the improvements or goods already exist.

Schedule 1[11] inserts proposed sections 10A and 10B. Proposed section 10A provides that a person is not entitled to compensation for damage to improvements or goods arising from subsidence if the person refused to allow a pre-mining inspection to be carried out. Proposed section 10B provides that compensation is not payable to a person for damage caused by works carried out under, or in compliance with a direction given under, the Act, section 27 or 29, if the works were carried out by the person using money paid from the Coal Mine Subsidence Compensation Fund (the *Fund*).

Schedule 1[12] removes the requirement that a claim be lodged through the Subsidence Advisory NSW website and instead requires that a claim be lodged in the way approved by the Chief Executive of Subsidence Advisory NSW (the *Chief Executive*).

Schedule 1[14] inserts proposed section 11A to clarify that Subsidence Advisory NSW has the function of assessing claims for compensation made under the Act, in accordance with approved procedures made under section 14, and producing an assessment report.

Schedule 1[15] replaces section 12 to clarify that the Chief Executive is required to determine claims for compensation made under the Act and give written reasons for a determination made that is inconsistent with the assessment report relating to the claim.

Schedule 1[16] removes the requirement for claims for compensation to be determined in accordance with approved procedures.

Schedule 1[17] clarifies the matters that approved procedures may deal with.

Schedule 1[18] amends section 14 to require the Chief Executive to consult with members of the public before approving, amending or replacing an approved procedure.

Schedule 1[19] removes references to the proprietor of an active coal mine from section 15(1).

Schedule 1[20], [21], [25]–[28], [38], [39], [48] and [50]–[52] increase the maximum monetary penalty for certain offences.

Schedule 1[10], [22] and [23] make consequential changes.

Schedule 1[24], [32], [40], [44] and [49] modernise the language used by the Act.

Schedule 1[29] clarifies that when a person seeks approval to alter or erect improvements or to subdivide land within a mine subsidence district, the Chief Executive may refuse approval if the Chief Executive is satisfied that the land to which the application relates may subside as a result of the historical or future extraction of coal undertaken in the mine subsidence district.

Schedule 1[30] expands the scope of section 26 so that it applies to active and non-active coal mines.

Schedule 1[33] clarifies that the Chief Executive is not required to restore damaged improvements or goods on land under section 26(1)(a).

Schedule 1[34] provides that the Chief Executive may demolish improvements or goods that have been purchased or acquired, or are on land that has been purchased or acquired, under section 26(1) or (2).

Schedule 1[35] provides that the Chief Executive may recover the costs of certain actions taken under section 26(1) and (2) from a proprietor of an active coal mine.

Schedule 1[36] inserts proposed section 26A, which provides that the Chief Executive may direct the proprietor of an active coal mine to purchase land or improvements damaged by subsidence, or carry out works to restore the land or improvements to the condition they were in before the damage occurred.

Schedule 1[37], [41] and [42] provide that the Chief Executive may—

- (a) evacuate people from land if the Chief Executive reasonably believes that damage to the surface of any land arising from subsidence may cause danger to a member of the public, and to arrange temporary accommodation for people who have been evacuated, and
- (b) make a payment from the Fund to reimburse a person for expenses incurred by the person as a result of certain actions taken by the Chief Executive to prevent danger to the public, and
- (c) recover a payment made from the Fund from the proprietor of an active coal mine if the payment was made to reimburse a person for expenses incurred as a result of actions taken by the Chief Executive to prevent danger to the public, if the Chief Executive has formed the opinion that the actions taken were necessary to eliminate or minimise danger caused by, or in connection with, subsidence arising from the active coal mine, and
- (d) make a payment from the Fund to reimburse a public authority for expenses incurred by the authority when carrying out works to repair damage to land, improvements or goods, if the damage to the land, improvements or goods arose from subsidence.

Schedule 1[43] provides that the Chief Executive may carry out works to prevent or mitigate damage to existing improvements or goods that the Chief Executive anticipates would, in the absence of the works, occur because of subsidence. The Chief Executive may also authorise amounts to be paid from the Fund to—

- (a) fund works to prevent or mitigate damage to existing improvements or goods, and
- (b) compensate a person for expenses incurred as a result of works to prevent or mitigate damage to existing improvements or goods.

Schedule 1[45] inserts proposed sections 31A and 31B. Proposed section 31A provides that before a person commences mining operations for a coal mine, the Chief Executive may direct that a pre-mining inspection be carried out in relation to land that the Chief Executive is satisfied may be at risk of damage arising from subsidence caused by the mining operations. The proposed section also provides that—

- (a) the pre-mining inspection must be carried out in accordance with the approved procedures under the Act, section 14, and
- (b) the Chief Executive may install survey equipment on land on which a pre-mining inspection is undertaken to monitor whether damage from subsidence is likely to occur to the land or to any improvements or works on the land, and
- (c) the Chief Executive may recover costs associated with a pre-mining inspection from the proprietor of the proposed coal mine to which the mining operations relate.

Proposed section 31B provides that the Chief Executive may, by written notice, require the production of certain documents or information, and makes the failure to comply with the requirement an offence.

Schedule 1[53] provides that the Secretary of the Department of Customer Service must not delegate certain functions of the Secretary under the Act to the Chief Executive or a person employed by Subsidence Advisory NSW.