



New South Wales

Mining Amendment (Royalties for Rejuvenation Fund) Regulation 2022

under the

Mining Act 1992

[*The following enacting formula will be included if this Regulation is made—*]

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Mining Act 1992*.

Minister for Regional New South Wales

Explanatory note

The objects of this Regulation are to—

- (a) provide that a Royalties for Rejuvenation Expert Panel (an *Expert Panel*) established for an affected coal mining region has the function of advising the Minister about certain matters in relation to the region, and
- (b) provide for the constitution and procedure of Expert Panels, including requirements for Panel members to disclose certain pecuniary interests, and
- (c) prescribe areas of the State as affected coal mining regions.

Mining Amendment (Royalties for Rejuvenation Fund) Regulation 2022 [NSW]

Mining Amendment (Royalties for Rejuvenation Fund) Regulation 2022

under the

Mining Act 1992

1 Name of Regulation

This Regulation is the *Mining Amendment (Royalties for Rejuvenation Fund) Regulation 2022*.

2 Commencement

This Regulation commences on the day on which the *Mining and Petroleum Legislation Amendment Act 2022*, Schedule 1[123] commences.

Schedule 1 Amendment of Mining Regulation 2016

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3(1)—

affected coal mining region means an area of the State prescribed by clause 89A.

Expert Panel means a Royalties for Rejuvenation Expert Panel established by the Minister under the Act, section 292X.

Panel Member, for Schedule 7A—see Schedule 7A, clause 1.

[2] Part 9A

Insert after Part 9—

Part 9A Royalties for Rejuvenation Fund

89A Affected coal mining region—the Act, s 292W

For the Act, section 292W(10), definition of *affected coal mining region*, the areas of the State within the following local government areas are prescribed—

- (a) City of Cessnock,
- (b) Gunnedah,
- (c) City of Lake Macquarie,
- (d) City of Lithgow,
- (e) Liverpool Plains,
- (f) City of Maitland,
- (g) Mid-Western Regional,
- (h) Muswellbrook,
- (i) Narrabri,
- (j) City of Newcastle,
- (k) Singleton,
- (l) Upper Hunter Shire,
- (m) Wollondilly,
- (n) City of Wollongong.

89B Functions of Expert Panels—the Act, s 292X

For the Act, section 292X(4)(b), an Expert Panel has the function of advising the Minister about the following matters—

- (a) the consequences and opportunities associated with moving away from coal mining, particularly in relation to the impact on employment and economic activity in the affected coal mining region,
- (b) alternative land uses of coal mining sites,
- (c) the outcome of public consultation about—
 - (i) options to support the economic diversification of the affected coal mining region in alternative industries, and
 - (ii) the affected coal mining region's reliance on coal mining for employment and economic activity.

89C Provisions in relation to constitution and procedure of Expert Panels—the Act, s 292X

For the Act, section 292X(6), Schedule 7A contains provisions in relation to the constitution and procedure of an Expert Panel.

[3] Schedule 7A

Insert after Schedule 7—

Schedule 7A Constitution and procedure of Expert Panels

clause 89C

Part 1 Preliminary

1 Definition

In this Schedule—

Panel member—see clause 2.

Part 2 Constitution of Expert Panels

2 Panel members

- (1) An Expert Panel must be constituted by at least 5, but not more than 10, persons appointed by the Minister (each a *Panel member*).
- (2) The Minister must not appoint a person unless, in the Minister's opinion, the person has at least one of the following attributes—
 - (a) knowledge of the economic or commercial activity of the affected coal mining region to which the Expert Panel relates,
 - (b) represents the interests of a group likely to be affected by a move away from coal mining.
- (3) The following persons must be selected from among the persons appointed by the Minister—
 - (a) 1 Chairperson, selected by the Minister,
 - (b) 1 Deputy Chairperson, selected by the Expert Panel.
- (4) The following persons are not eligible to be appointed to an Expert Panel—
 - (a) Public Service employees,
 - (b) a person appointed to a statutory office,
 - (c) a person elected to a civic office, within the meaning of the *Local Government Act 1993*.
- (5) The provisions of the *Government Sector Employment Act 2013* in relation to the employment of Public Service employees do not apply to a Panel member.
- (6) In this clause—

Public Service employee has the same meaning as in the *Government Sector Employment Act 2013*.

3 Term of office of Panel members

- (1) A Panel member holds office for a term, not exceeding 3 years, specified by the Minister in the Panel member's instrument of appointment.

- (2) A Panel member is eligible for reappointment—
 - (a) if the member is otherwise eligible for appointment, and
 - (b) for only one further term, whether consecutive or non-consecutive.

4 Vacancy in office of Panel members

- (1) The office of a Panel member becomes vacant if the member—
 - (a) dies, or
 - (b) completes a term of office and is not reappointed, or
 - (c) resigns the office by written notice given to the Minister, or
 - (d) is removed from office, or
 - (e) is absent from 3 consecutive meetings, unless the Chairperson has granted the Panel member leave or the Panel has excused the Panel member's absence, or
 - (f) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration for the benefit of the member's creditors, or
 - (g) becomes an incapacitated person, or
 - (h) is convicted in New South Wales of an offence punishable by imprisonment for 12 months or more, or
 - (i) is convicted outside of New South Wales of an offence that, if committed in New South Wales, would be an offence punishable by imprisonment for 12 months or more.
- (2) If the office of a Panel member becomes vacant, a person may, subject to this Part, be appointed to fill the vacancy.

5 Removal of Panel members

The Minister may remove a Panel member.

Part 3 Procedure of Expert Panels

6 General procedure

An Expert Panel may, subject to the Act and this Regulation, determine procedures for—

- (a) the calling of Expert Panel meetings, and
- (b) the conduct of business at Expert Panel meetings.

7 Quorum

The quorum for an Expert Panel meeting is a majority of the Panel members.

8 Presiding member

- (1) The Chairperson, or, in the Chairperson's absence, the Deputy Chairperson, must preside at Expert Panel meetings.
- (2) If the Chairperson and the Deputy Chairperson are absent, a Panel member elected by the Panel members present at the Panel meeting must preside.
- (3) The presiding member at a meeting has a second or casting vote if there is an equality of votes.

9 Voting

A decision supported by a majority of votes cast at an Expert Panel meeting at which a quorum is present is the decision of the Expert Panel.

10 Conduct of business

- (1) An Expert Panel may conduct the business of the Panel by—
 - (a) circulating papers to the Panel members, or
 - (b) telephone, teleconference or other electronic means, but only if a Panel member who speaks on a matter may be heard by other Panel members.
- (2) If an Expert Panel conducts the business of the Panel in accordance with subclause (1), a written resolution approved by a majority of the Panel members—
 - (a) is taken to be a decision of the Panel, and
 - (b) must be recorded in the minutes of the Panel meeting.

11 Disclosure of pecuniary interests

- (1) This clause applies if—
 - (a) a Panel member has a pecuniary interest in a matter being considered, or about to be considered, at an Expert Panel meeting, and
 - (b) the pecuniary interest appears to be in conflict with the proper performance of the Panel member's duties in relation to the matter.
- (2) A Panel member must, as soon as possible after becoming aware of the pecuniary interest, disclose the nature of the Panel member's pecuniary interest at an Expert Panel meeting.
- (3) For subclause (1), a pecuniary interest held by the following persons is taken to be a pecuniary interest of a Panel member—
 - (a) the Panel member's spouse or de facto partner,
 - (b) a relative of the Panel member,
 - (c) a partner or employer of the Panel member,
 - (d) a company or other body of which the Panel member, or Panel member's partner or employer, is a member.
- (4) Subclause (3) does not apply—
 - (a) if the Panel member is not aware of the pecuniary interest, or
 - (b) on the basis the Panel member is employed by a local council, a statutory body or the Crown, or
 - (c) on the basis the Panel member is a member of a company or other body that has a pecuniary interest in the matter, if the Panel member has no beneficial interest in the shares of the company or body.
- (5) A Panel member's disclosure of the following matters is sufficient disclosure of a pecuniary interest in relation to any matter that may relate to the company, body or person—
 - (a) that the Panel member, spouse, de facto partner, relative, partner or employer is a member, or employed by, a company or other body,
 - (b) that the Panel member, spouse, de facto partner, relative, partner or employer is a partner, or employed by, a person,

public consultation draft

Mining Amendment (Royalties for Rejuvenation Fund) Regulation 2022 [NSW]
Schedule 1 Amendment of Mining Regulation 2016

- (c) that the Panel member, spouse, de facto partner, relative, partner or employer has another interest in relation to a company, body or other person.
- (6) Information about a Panel member's disclosure must be recorded by the Panel.
- (7) A record made under subclause (6) must be available for inspection on the request of a person.
- (8) If a Panel member has disclosed a pecuniary interest in a matter, the member must not, unless the Minister or the Panel otherwise determines—
 - (a) be present at a Panel meeting while the matter is considered, or
 - (b) participate in the making of a Panel decision in relation to the matter.
- (9) When determining if a Panel member should be present at a Panel meeting or participate in the making of a Panel decision in relation to a matter in which the Panel member has a pecuniary interest, the Panel member must not—
 - (a) be present at a Panel meeting at which the matter is determined, or
 - (b) participate in the making of a Panel decision in relation to the determination.
- (10) Contravention of this clause does not invalidate a Panel decision.