



New South Wales

Mining Amendment (Royalties for Rejuvenation Fund) Regulation 2022

under the

Mining Act 1992

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 operation, 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.

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1 Name of Regulation

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

2 Commencement

This Regulation commences on 21 October 2022.

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 following areas of the State are prescribed—

- (a) the Hunter, comprising the following local government areas—
 - (i) City of Cessnock,
 - (ii) City of Lake Macquarie,
 - (iii) City of Maitland,
 - (iv) Muswellbrook,
 - (v) City of Newcastle,
 - (vi) Singleton,
 - (vii) Upper Hunter Shire,
- (b) the Illawarra, comprising the local government areas of Wollondilly and the City of Wollongong,
- (c) the North West, comprising the following local government areas—
 - (i) Gunnedah,
 - (ii) Liverpool Plains,
 - (iii) Narrabri,
- (d) the Central West, comprising the local government areas of the City of Lithgow and Mid-Western Regional.

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) options to support the economic diversification of the affected coal mining region in alternative industries.

89C Operation of Expert Panels—the Act, s 292X

- (1) For the Act, section 292X(6)(b), an Expert Panel may undertake public consultation, in the way determined by the Panel, for the purposes of advising the Minister about the matters specified in clause 89B.
- (2) If an Expert Panel undertakes public consultation, the Panel—
 - (a) must not, in consulting the public, release information to the public if the Panel considers the information is commercial in confidence, and
 - (b) must consider information received in response to the public consultation before advising the Minister.

89D 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 89D

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 the appointed Panel members—
 - (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 factor 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,
 - (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.