



New South Wales

Clean Coal Administration Act 2008 No 50

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New South Wales

Clean Coal Administration Act 2008 No 50

Act No 50, 2008

An Act to establish the Clean Coal Fund to provide funding for clean coal technologies; and to establish the Clean Coal Council. [Assented to 1 July 2008]

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Clean Coal Administration Act 2008*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Definitions

In this Act:

clean coal technologies means technologies for facilitating reduction of greenhouse gas emissions from the use of coal.

exercise a function includes perform a duty.

function includes a power, authority or duty.

Minerals Council means the New South Wales Minerals Council Limited (ACN 002 500 316).

the Council means the Clean Coal Council established by this Act.

the Fund means the Clean Coal Fund established by this Act.

Part 2 Clean Coal Fund

4 Establishment of Fund

- (1) There is to be established in the Special Deposits Account a fund called the Clean Coal Fund.
- (2) The Fund is to be administered by the Minister.

5 Purposes of Fund

The purposes of the Fund are as follows:

- (a) to provide funding for research into, and development of, clean coal technologies,
- (b) to provide funding to demonstrate clean coal technologies,
- (c) to provide funding to increase public awareness and acceptance of the importance of reducing greenhouse gas emissions through the use of clean coal technologies,
- (d) to provide funding for the commercialisation of clean coal technologies.

6 Payments into Fund

- (1) There is payable into the Fund:
 - (a) all money advanced by the Treasurer for the Fund, and
 - (b) all money appropriated by Parliament for the purposes of the Fund, and
 - (c) the proceeds of the investment of money in the Fund, and
 - (d) all money directed or authorised to be paid into the Fund by or under this or any other Act or law, and
 - (e) all money received from voluntary contributions to the Fund made by any person or body.
- (2) A voluntary contribution to the Fund may be made on the condition that the contribution is to be used only for a specified purpose.

7 Payments out of Fund

- (1) There is payable from the Fund:
 - (a) payments approved by the Minister for the purposes of the Fund, and
 - (b) administrative expenses incurred in relation to the Fund or the Council, and
 - (c) payments directed or authorised to be paid from the Fund by or under this or any other Act or law.

- (2) Any money paid into the Fund on the condition that it is to be used only for a specified purpose, including any proceeds of the investment of that money in the Fund, is only payable from the Fund for the specified purpose and a proportionate share of the administrative expenses payable from the Fund.
- (3) The Minister is to produce an annual report detailing fund allocations and the projects and other activities that received funding under this Act during the year.
- (4) The annual report is to include an evaluation of the effectiveness of each of the projects and other activities that received funding under this Act.
- (5) The annual report is to be tabled in each House of Parliament within 6 months after the end of the financial year to which it relates.
- (6) The Minister is to publish each annual report, so as to promote clean coal technologies to the NSW public.

8 Investment of money in Fund

The Minister may invest money in the Fund:

- (a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
- (b) if that Act does not confer power on the Minister to invest the money, in any other manner approved by the Treasurer.

Part 3 Clean Coal Council

9 Establishment of Council

There is established by this Act a Clean Coal Council.

10 Membership of Council

- (1) The Council is to consist of the following members appointed by the Minister:
 - (a) five persons, each of whom is employed in or by a government agency,
 - (b) five persons who are nominated jointly by the Australian Coal Association and the Minerals Council to represent the New South Wales black coal industry,
 - (c) such other persons as the Minister may appoint from time to time, being persons whom the Minister considers have qualifications or experience relevant to the functions of the Council.
- (2) The Minister is to appoint one of the members of the Council as Chairperson of the Council.
- (3) If any or all of the nominations required for the purposes of subsection (1) (b) are not made within such time or in such manner as may be specified by the Minister by notice to the Australian Coal Association and the Minerals Council, the Minister may appoint any person or persons so that five members are appointed to represent the New South Wales black coal industry.
- (4) Schedule 1 has effect with respect to the Council.

11 Functions of Council

- (1) The functions of the Council are as follows:
 - (a) to give advice and make recommendations to the Minister concerning the funding from the Fund of projects and other activities for the purposes of the Fund, including advice about priorities for funding and recommendations concerning applications for funding,
 - (b) to advise the Minister on policies to encourage the development and implementation of clean coal technologies,
 - (c) to make recommendations to the Minister concerning opportunities for involvement by private and public sector entities in interstate, national and international research projects involving clean coal technologies,

- (d) to advise the Minister on such other matters concerning clean coal technologies as the Minister may refer to the Council,
 - (e) such other functions with respect to clean coal technologies as the Minister may from time to time direct.
- (2) The Council may give its advice and make its recommendations either at the request of the Minister or without any such request.
- (3) The Council has such other functions as are conferred or imposed on it by or under this or any other Act.

12 Powers of Council

The Council may do all things that are necessary or convenient to be done for or in connection with the exercise of its functions, and, in particular, may:

- (a) consult with appropriate persons and bodies, and
- (b) undertake or commission research, and
- (c) obtain technical or professional advice, and
- (d) provide information to the public, and
- (e) consult with relevant international, Commonwealth, State and Territory bodies, and
- (f) issue guidelines relating to the required form and content of applications for funding from the Fund.

13 Committees of Council

- (1) The Council may establish committees for specified purposes to assist it in connection with the exercise of its functions.
- (2) A committee must include at least one member of the Council.
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Council or (subject to any determination of the Council) by the committee.

Part 4 Miscellaneous

14 Delegation

The Minister may delegate to a member of the Government Service the exercise of any of the Minister's functions under this Act or the regulations, other than this power of delegation.

15 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

16 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Provisions relating to members and procedure of Council

(Section 10 (4))

1 Definitions

In this Schedule:

Chairperson means the Chairperson of the Council.

member means a member of the Council.

2 Deputies of members

- (1) The Minister may, from time to time, appoint a person to be the deputy of a member, and may revoke any such appointment.
- (2) In the absence of a member, the member's deputy may, if available, act in the place of the member.
- (3) While acting in the place of a member, the deputy has all the functions of the member and is taken to be a member.
- (4) This clause does not operate to confer on the deputy of a member who is the Chairperson the member's functions as Chairperson.

3 Terms of office

Subject to this Schedule, a member holds office for such period (not exceeding 5 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

4 Allowances

A member (other than a person employed in or by a government agency) is entitled to be paid such allowances as the Minister may from time to time determine in respect of the member.

5 Vacancy in office

- (1) The office of a member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) absents himself or herself from 4 consecutive meetings of the Council of which reasonable notice has been given to the member personally or in the ordinary course of post, unless:

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- (i) the Council has granted the member leave to be absent from those meetings, or
 - (ii) within 4 weeks after the last of those meetings, the member is excused by the Council for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(2) The Minister may remove a member from office at any time.

6 Filling of vacancy in office of member

If the office of a member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

7 Effect of certain other Acts

- (1) The *Public Sector Employment and Management Act 2002* does not apply to the appointment of a member, subject to that Act (except Chapter 5).
- (2) If by or under any Act provision is made:
 - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

- (3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

8 General procedure

The procedure for the calling of meetings of the Council and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Council.

9 Quorum

The quorum for a meeting of the Council is a majority of its members for the time being.

10 Minister may attend meeting

The Minister, or a delegate of the Minister, may attend meetings of the Council and may participate in discussions of the Council, but is not entitled to vote at any such meeting.

11 Presiding member

- (1) The Chairperson or, in the absence of the Chairperson, another member elected to chair the meeting by the members present is to preside at a meeting of the Council.
- (2) The person presiding at any meeting of the Council has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

12 Voting

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

13 Transaction of business outside meetings or by telephone

- (1) The Council may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Council for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Council.
- (2) The Council may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Council.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Council.

- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

14 First meeting

The Minister is to call the first meeting of the Council in such manner as the Minister thinks fit.

[Agreement in principle speech made in Legislative Assembly on 11 April 2008
Second reading speech made in Legislative Council on 24 June 2008]

BY AUTHORITY