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New South Wales

Coal Market Price Emergency (Directions for Coal Mines) Amendment Notice 2023

under the

Energy and Utilities Administration Act 1987

The Minister for Energy makes the following notice under the *Energy and Utilities Administration Act 1987*, Schedule 3, clause 6.

PENNY SHARPE, MLC
Minister for Energy

Dated 5 June 2023 at 10:50am

Coal Market Price Emergency (Directions for Coal Mines) Amendment Notice 2023

under the

Energy and Utilities Administration Act 1987

1 Name of notice

This notice is the *Coal Market Price Emergency (Directions for Coal Mines) Amendment Notice 2023*.

2 Commencement

This notice commences on the day on which it is made.

Schedule 1 Amendment of Coal Market Price Emergency (Directions for Coal Mines) Notice 2023

[1] Section 4 Meaning of “existing agreement”

Omit “binding” from section 4(1)(b).

[2] Section 4(2)

Omit “An agreement referred to in subsection (1)(b) continues to be an *existing agreement* even if it”.

Insert instead “An agreement made under an arrangement referred to in subsection (1)(c) continues to be an *existing agreement* even if the agreement”.

[3] Section 9 Direction about accepting offers from coal fired power stations

Omit section 9(1)(c). Insert instead—

- (c) the thermal coal is not subject to a coal supply agreement and the offer is for an amount of thermal coal that is equal to or less than the amount the coal supplier must make available under section 12.

[4] Section 9(2) and (3)

Omit the subsections. Insert instead—

- (2) For subsection (1)(b), an offer is on reasonable terms if the offer is on terms that—
 - (a) for a coal supplier that ordinarily supplies thermal coal for coal fired power stations—are substantially the same as the terms on which a coal supplier ordinarily supplies thermal coal and at a price that is—
 - (i) equal to the price referred to in section 8(1)(a) or (b), or
 - (ii) less than the price referred to in section 8(1)(a) or (b) and agreed to by the coal supplier, or
 - (b) otherwise—
 - (i) are substantially the same as the terms on which the person ordinarily buys thermal coal for use in the coal fired power station other than terms relating to the following, which must be reasonable in the circumstances—
 - (A) the responsibility for unloading the coal,
 - (B) the testing of the coal to measure its suitability for use in a coal fired power station, and
 - (ii) for a term about the quality of coal—is in accordance with subsection (3).
- (3) For subsection (2)(b)(ii), a term about the quality of coal is reasonable in the circumstances if—
 - (a) a term about the quality required by a person who ordinarily buys coal is consistent with a term about the quality of coal supplied to the person under coal supply agreements during the previous 3 years, or
 - (b) a range of different terms about the quality of coal, on which the person ordinarily buys coal, have been specified under different agreements in the past 3 years—a term about thermal coal provides that the thermal coal has a coal quality with a typical specific energy of 5,000kcal/kg net of water vapour as received by the power station.

- (3A) A coal supplier must respond to an offer to enter an agreement for the supply of coal to a coal fired power station—
- (a) in writing, and
 - (b) within 5 business days after receiving the offer.

[5] Section 9(5)

Insert after section 9(4)—

- (5) In this section—
- business day* means a day that is not—
 - (a) a Saturday or Sunday, or
 - (b) a public holiday or bank holiday throughout the State.
 - public holiday* means a day appointed under the *Public Holidays Act 2010* or another Act as a public holiday.

[6] Section 15 Direction about reporting

Omit “30 days” from section 15(1)(e). Insert instead “90 days”.

[7] Section 15(2)

Omit the subsection. Insert instead—

- (2) For subsection (1)(a) and (c), a price less than the equivalent of \$0.02273/kcal/kg must be reported as less than \$125 per tonne.

[8] Section 15(3)

Insert at the end of the subsection—

- , and
- (c) accompanied by a statutory declaration—
 - (i) of an officer of the coal supplier with responsibility for, or oversight of, the matters set out in subsection (1), and
 - (ii) declaring that the monthly report is true and correct.

[9] Section 15(7)

Omit “regulator”. Insert instead “Regulator”.

[10] Section 15(8)

Insert in alphabetical order—

officer has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

[11] Schedule 1 Reservations of coal production

Omit “Glencore Holdings Pty Limited ACN 104 160 689”.

Insert instead “Glencore Coal Pty Limited ACN 082 271 930”.

[12] Schedule 1

Omit “Gloucester Coal Pty Ltd”. Insert instead “Gloucester Coal Ltd”.

[13] Schedule 1

Omit “Kores Australia Moolarben Coal Pty Limited ABN 39 129 132 50”.

Insert instead “Kores Australia Moolarben Coal Pty Limited ABN 39 129 132 501”.



New South Wales

Coal Market Price Emergency (Directions for Power Stations) Amendment Notice 2023

under the

Energy and Utilities Administration Act 1987

The Minister for Energy makes the following notice under the *Energy and Utilities Administration Act 1987*, Schedule 3, clause 6.

PENNY SHARPE, MLC
Minister for Energy

Dated 5 June 2023 at 10:50am

Coal Market Price Emergency (Directions for Power Stations) Amendment Notice 2023

under the

Energy and Utilities Administration Act 1987

1 Name of notice

This notice is the *Coal Market Price Emergency (Directions for Power Stations) Amendment Notice 2023*.

2 Commencement

This notice commences on the day on which it is made.

Schedule 1 Amendment of Coal Market Price Emergency (Directions for Power Stations) Notice 2023

[1] Section 3 Definitions

Omit “*Coal Market Price Emergency (Directions for Coal Suppliers) Notice 2023*” from the definition of *coal supplier*.

Insert instead “*Coal Market Price Emergency (Directions for Coal Mines) Notice 2023*”.

[2] Section 3

Insert in alphabetical order—

officer has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

[3] Section 6 Introduction

Insert “and officers of relevant persons” after “relevant persons”.

[4] Section 8 Direction about entering coal supply agreements

Insert “a written response to” before “an offer” in section 8(1).

[5] Section 11 Direction about reporting

Omit section 11(2). Insert instead—

- (2) For subsection (1)(a) or (c), a price less than the equivalent of \$0.02273/kcal/kg must be reported as less than \$125 per tonne.

[6] Section 11(3)(c)

Insert at the end of section 11(3)(b)—

, and

- (c) accompanied by a statutory declaration—
- (i) of an officer of the relevant person with responsibility for, or oversight of, the matters set out in subsection (1), and
 - (ii) declaring that the monthly report is true and correct.