



Australian Government

**Coal Mining Industry
(Long Service Leave Funding) Corporation**

**Submission to the Senate Education and
Employment Legislation Committee
inquiry into the Coal Mining Industry
(Long Service Leave) Legislation
Amendment Bill 2025**

March 2026

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ABOUT COAL LSL

The Coal Mining Industry (Long Service Leave Funding) Corporation (Coal LSL) is a corporate Commonwealth entity established under the Coal Mining Industry (Long Service Leave) Administration Act 1992 (Cth) (Admin Act).

The Scheme, established in 1949 for the benefit of employees working in the Australian black coal mining industry, provides long service leave entitlements to eligible employees based on the industry they work in rather than their service with a particular employer.

Coal LSL was established to maintain the Coal Mining Industry (Long Service Leave) Fund, manage the Scheme and undertake regulatory functions to ensure industry compliance with the Scheme.

Today, more than 67,000 active employees in the industry are accruing long service leave benefits through the Scheme. Coal LSL is the custodian of more than 73 million hours of leave benefits for eligible employees and, at February 2026, funds under management were \$2.7 billion.

The role of Coal LSL is to:

- collect funds from employers by way of levy
- invest funds and ensure Fund sufficiency to finance the cost of reimbursements of long service leave
- ensure accurate and compliant record keeping
- reimburse employers' authorised payments of long service leave
- enable recognition of long service leave entitlement for eligible employees.

In fulfilling this role, Coal LSL performs 3 core functions:

- Regulation
- Administration
- Investment management.

BACKGROUND

A primary function of Coal LSL is to maintain the long service leave records of employees and to ensure employers pay the payroll levy on eligible wages as defined in the *Coal Mining Industry (Long Service Leave) Payroll Levy Act 1992 (Cth)* and the *Coal Mining Industry (Long Service Leave) Payroll Levy Collection Act 1992 (Cth)*.

In 2010, the *Coal Mining Industry (Long Service Leave Funding) Amendment Act 2009* amended the definition of "eligible employee" in the Scheme's enabling legislation to align with changes in mining operations where components of core mining functions were outsourced to service providers.

Following these amendments, employer adherence with statutory obligations has been an ongoing issue for Coal LSL. Many employers on the periphery of the black coal mining industry have continued to dispute the eligibility of their employees, claiming their companies were not engaged directly in the industry. Employers have disputed the eligibility of certain employees and failed to pay levies, with significant liabilities being accrued.

The Coal LSL Board of Directors responded by initiating an employer compliance program to proactively address the unresolved non-compliance.



The program focused on engaging non-complying employers through education and support to ensure a strong awareness of statutory obligations existed across the industry, and to ensure the implications of non-compliance were known. To a degree, this was an effective strategy. In 2015, there were 509 employers registered in the Fund and 44,000 active employees accruing long service leave. This has now increased to more than 1500 employers and more than 67,000 active employees.

However, we are aware there remains a number of non-compliant employers in breach of their obligations under Coal LSL's legislation, particularly those in maintenance, repairs and other services that have long held the view their employees are not eligible under the Admin Act. Coal LSL's regulatory process saw a number of disputes progress through the Federal Court.

On 15 May 2025, the Full Court of the Federal Court decided Orica's appeal in *Orica Australia Pty Ltd v Coal Mining Industry (Long Service Leave Funding) Corporation* [2025] FCAFC 65. The decision provided clarity about coverage for shotfirers in the Scheme.

The Full Court's decision followed the dismissal of Hitachi's appeal in December 2024 in *Hitachi Construction Machinery (Australia) Pty Ltd v Coal Mining Industry (Long Service Leave Funding) Corporation* [2024] FCAFC 166, where the court determined the relevant employees were eligible for the Scheme.

Coal LSL welcomes the Australian Government's acknowledgement of the impacts the decisions made in Hitachi and Orica would have on some employers in the coal mining industry. Coal LSL acknowledges the subsequent introduction of the *Coal Mining Industry (Long Service Leave Funding) Corporation Amendment Act 2025* (the Bill).

Coal LSL also welcomes the Bills provision which will see the replacement of the defunct additional levy rate in the Collection Act with a rate tied to the Reserve Bank

KEY POINTS

- The Bill addresses the need for government support to be provided in resolving these historical issues, as identified in the independent report *Enhancing certainty and fairness: Independent Review of the Coal Mining Industry (Long Service Leave Funding) Scheme* (December 2021) (the Report). Recommendation 2 in the Report recommended the government work with stakeholders to support the onboarding of employers and employees whose coverage by the Scheme has been the subject of dispute, and to facilitate the payment of historical debts. Coal LSL believes this Bill addresses the intent of this recommendation.
- Coal LSL is currently engaging with a number of non-compliant employers who employ eligible employees under the Admin Act. These employers range from large employers with more than 500 employees to small businesses employing less than 15 employees. It is Coal LSL's belief that this Bill would have a material impact on reducing the number of employers that have been reticent to register with the Scheme, allowing for the onboarding of their eligible employees and the recognition of their rightful entitlements dating back to 2010. However, until an employer willingly



provides data to Coal LSL, we do not have visibility or certainty of the quantum of employees who will be onboarded on to the Scheme, the extent of the employment service that will be recognised, the amount of the liability Coal LSL will absorb and whether those employees with historical service are still employed in the industry.

- While Coal LSL acknowledges the voluntary nature of the payment arrangement and waiver component proposed by the Bill, it is also important to note employers of eligible employees under the Scheme are legally obligated to pay levy and provide long service leave entitlements under the Scheme. The Bill does not change these obligations – it simply offers a structured pathway for employers to pay historical debts and to access a 20% waiver of the debt if all obligations in the Bill are met. Employers can choose whether this pathway suits them. Should an employer of eligible employees choose not to participate, Coal LSL will undertake its standard regulation processes to pursue compliance which may result in the commencement of proceedings to recover debts owed.
- Coal LSL believes the additional levy rate proposed in the Bill will provide a more effective deterrent for employers who make levy payments after their due date. This is an important standard regulatory mechanism utilised to address employer non-compliance with obligations under s7 of the Collection Act.
- The Scheme is funded by a levy imposed on eligible wages paid to eligible employees payable by the person who paid those wages. This rate has changed over the years and is currently set at 2.7% of eligible wages. Funds are invested in a disciplined and risk-controlled manner. In doing so, Coal LSL safeguards long service leave entitlements for eligible employees and facilitates the accrual of, and access to, these entitlements.
- This Bill does not impact on Commonwealth finances; the Fund will cover any shortfall of levy payments resulting from the proposed debt waivers.
- Coal LSL has conducted a financial review to gain an understanding of the potential effects of the Bill on the sustainability of the Fund.

Financial modelling has been based on 4 scenarios with key assumptions used for demographic profile, wage growth, investment return and inflation. Based on the financial assumptions, sensitivities, and variations of possible employee numbers to onboard, the financial modelling indicates it is highly probable the Funding Ratio will remain within the Board agreed Corporate Objective of 115% (+15% / -5%).

The biggest variabilities in the modelling are predominantly in relation to employee numbers, given this data has not been available from industry groups to date. To counter this, the modelling in this area has been based on scenarios in the range of between 3,500 and 10,000 employees onboarding onto the Scheme under the payment arrangements.



CONNECTING EMPLOYEES WITH THEIR LONG SERVICE LEAVE ENTITLEMENTS

As the custodian and regulator of the long service leave scheme for employees within the black coal mining industry, it is Coal LSL's responsibility to ensure the financial sustainability of the Fund, ensure employees can access their long service leave benefits and enforce sector-wide compliance with our governing legislation.

As we discharge our functions and statutory obligations, we have continued to work closely with our industry stakeholders, to support and enhance trust and tripartism through engagement in an open, transparent and consistent manner. Importantly, we balance the integrity of our regulatory processes with a genuine interest in the views our stakeholders share about the way we implement these processes.

Working with the Department of Employment and Workplace Relations, the collaboration has been an important factor which has allowed for a pragmatic pathway in the design of the Bill. Importantly, the Bill provides for a reasonable and practical approach to be adopted. In doing so, Coal LSL will provide the appropriate resources to support employers to onboard successfully. We believe this commitment is necessary for the outcome of 'all eligible employees having their rightful entitlements recognised' to be achieved. Similarly, it will also require employers to commit their appropriate resources to the task. Prioritising this will be a commitment required from employers so they can confidently meet the historical review of their payroll records, conduct the debt calculation and meet the audit provision and milestones outlined in the Bill.

Our purpose is to connect employees with their long service leave benefits.

We expect this Bill will address a long-standing issue that has seen eligible employees unable to access their rightful long service leave entitlements that has been otherwise irreconcilable for more than a decade.