



Coal LSL Review – terms of reference

The Coal Mining Industry (Long Service Leave Funding) Corporation – better known as ‘Coal LSL’ – is an Australian Government corporation established to regulate and manage long service leave entitlements on behalf of eligible employees in the black coal mining industry.

The scheme has over \$1.9 billion in funds under management. There are around 1000 employers registered with the scheme for over 53,000 active employees who are accruing and/or have accrued an entitlement under the scheme. Coal LSL hold an entitlement in hours for the each eligible employee (over 128,000 employees within the scheme) and currently manages around 55 million hours of leave.

As an Australian Government corporation that manages portable long service entitlements for the black coal industry, Coal LSL faces a unique operating environment that has evolved considerably over its history. This has included a shift over decades to an industry consisting of employers of all sizes, from multinational companies to small site specific maintenance operations, as well as a more diverse and mobile workforce composition as part of contemporary business operating models. The review will provide an opportunity to consider Coal LSL’s current performance and framework, and enhancements that can be made to ensure there is confidence that hours worked by eligible employees are being properly and transparently reported to Coal LSL, and that Coal LSL is a model for the highest standards of public sector governance.

Coal LSL is unique as a corporate Commonwealth entity that is a public financial corporation and does not engage staff under the Public Service Act 1999. There are only five other entities across the Commonwealth Government sector that share these characteristics.¹

In this context, the Minister for Industrial Relations, Senator the Hon Michaelia Cash, has requested an independent external review of Coal LSL’s legislative framework to ensure the ongoing success of the scheme taking into account the need for:

- i. the highest levels of public sector accountability
- ii. a strong and effective compliance and enforcement framework
- iii. prudent investment management of the Fund
- iv. client responsiveness

¹ The other entities are Export Finance and Insurance Corporation; Australian Reinsurance Pool Corporation; National Housing Finance and Investment Corporation and the Reserve Bank of Australia. See <https://www.finance.gov.au/government/managing-commonwealth-resources/structure-australian-government-public-sector/pgpa-act-flipchart-and-list>

The review will have the following terms of reference:

1. The review will consider and report on:
 - a. The operation of Coal LSL's legislation including potential amendments to address its relevance, clarity, usability, and enforceability, taking into account
 - i) the contemporary composition of the industry and its workforce
 - ii) potential additions to the compliance and enforcement framework to ensure adherence to employer obligations and fraud risk/s, and provide timely and cost-effective dispute resolution mechanisms
 - iii) organisational culture and risk management practices
 - iv) real or perceived conflicts of interest in regard to the management, operation and administration of Coal LSL and its Board
 - v) potential for, and instances of, identified fraud or breaches in good governance
 - vi) improvements to internal audit and review processes to ensure employees are paid their due entitlements promptly
 - vii) processes to provide assurance that investments are managed and reported on in accordance with appropriate standards of visibility, probity and risk mitigation and are free from financial irregularities.
 - viii) the relationship between long service leave entitlements under the Coal LSL scheme and long service leave entitlements that may exist elsewhere
 - ix) proposals previously provided by Coal LSL to support the scheme's governance, coverage, compliance and administration. This includes existing proposals negotiated between certain employer groups and unions to resolve issues about scheme coverage.
 - b. Governance and operational models to enable Coal LSL to effectively manage its responsibilities, risks and accountabilities – including new responsibilities – in the interests of eligible employees and their employers.
 - c. Any other proposals that would ensure the efficient and transparent administration of the Fund and the corporation more generally, including highlighting existing successful practices and identifying opportunities to engage better with stakeholders.
2. Interested parties will have the opportunity to provide written submissions and/or meet with the independent reviewer. Stakeholders include, but are not limited to:
 - a. Coal LSL Board
 - b. Coal LSL executive
 - c. The Coal Mining Industry Employer Group
 - d. Other employers and their employees, and their representatives, including small and medium enterprises, outsourced service providers, and labour hire companies who supply employees who work in the black coal mining industry at or about a mine, and whose duties are directly connected with the day-to-day operation of a mine
 - e. Relevant unions and employee representatives
 - f. Ex-employees and employers
3. The following matters are not in scope of the review:
 - a. The Coal LSL Investment Plan and asset allocation guidelines, and the role of the Board in preparing these

- b. Coal LSL's legal status as a Commonwealth corporation established by the *Coal Mining Industry (Long Service Leave) Administration Act 1992*, rather than a private sector entity
 - c. Any proposal that would result in a reduction in the LSL entitlement of eligible employees, as defined in the *Coal Mining Industry (Long Service Leave) Administration Act 1992*
 - d. Potential legislative changes related to industrial relations or other policy issues in the coal mining industry beyond long service leave.
4. The review will provide its final report to the Minister for Industrial Relations in 2021.