



## **Coal Mining Industry (Long Service Leave) Administration Regulations 2018**

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 02 March 2018

Peter Cosgrove  
Governor-General

By His Excellency's Command

Craig Laundry  
Minister for Small and Family Business, the Workplace and Deregulation

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## Part 1—Preliminary

### 1 Name

This instrument is the *Coal Mining Industry (Long Service Leave) Administration Regulations 2018*.

### 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2018.	1 July 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

### 3 Authority

This instrument is made under the *Coal Mining Industry (Long Service Leave) Administration Act 1992*.

### 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

### 5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) Corporation;
- (b) eligible employee;
- (c) executive officer;
- (d) Fund.

In this instrument:

*Act* means the *Coal Mining Industry (Long Service Leave) Administration Act 1992*.

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***officer***, in relation to a corporation, means a person who:

- (a) is a director (within the meaning of the *Corporations Act 2001*) of the corporation; or
- (b) is an executive officer of the corporation; or
- (c) has control or substantial control of the corporation.

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## Part 2—Prescribed matters

### 6 Qualifications of Fund administrator

- (1) This section makes provision in relation to a person with whom the Corporation proposes to enter, or has entered, a contract to administer the Fund, as mentioned in subsection 8(2) of the Act (the *administrator*).
- (2) If the administrator is an individual, the Corporation must be satisfied on reasonable grounds that the administrator:
  - (a) has educational qualifications and experience appropriate to administer the Fund; and
  - (b) is not an insolvent under administration within the meaning of the *Corporations Act 2001*; and
  - (c) has not within the last 10 years been convicted of an offence involving financial dishonesty; and
  - (d) is of good fame and character; and
  - (e) will be an honest, efficient and fair administrator of the Fund.
- (3) If the administrator is a corporation, the Corporation must be satisfied on reasonable grounds that:
  - (a) the administrator is not a Chapter 5 body corporate within the meaning of the *Corporations Act 2001*; and
  - (b) subject to subsection (4), each officer of the administrator meets the requirements set out in subsection (2).
- (4) The Corporation may appoint a corporation as administrator even though not every officer of the administrator meets the requirements set out in subsection (2), if the Board is satisfied that the administration of the Fund is not likely to be prejudiced by the circumstance that one or more officers do not meet those requirements.

### 7 Waiver agreements—prescribed employees

For the purposes of subsection 39B(1) of the Act, an eligible employee is of a kind prescribed if the eligible employee:

- (a) is at least 55 years of age and has no qualifying service for the purposes of section 39A of the Act; or
- (b) is at least 55 years of age and has at least 8 years of qualifying service for the purposes of section 39A of the Act; or
- (c) is a manager of a corporation that employs eligible employees in the black coal mining industry; or
- (d) is a senior professional employee engaged in the management of a corporation that employs eligible employees in the black coal mining industry; or
- (e) has an annual salary (including allowances) of:
  - (i) in 2017—at least \$174,700; and

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- (ii) in a subsequent year—\$174,700, as adjusted by the annual rate of the Consumer Price Index for 2017 and then for each completed year (if any) after 2017; or
- (f) is employed under an undergraduate placement or a work training placement.

Note: Eligible employees of these kinds may make a waiver agreement with their employer as described in section 39B of the Act.



## **Part 3—Application and transitional provisions**

### **8 Application of instrument**

Section 6 (qualifications of fund administrator) applies in relation to a contract if the contract:

- (a) was in existence on 1 July 2018; or
- (b) is entered into on or after 1 July 2018.

## **Schedule 1—Repeals**

### ***Coal Mining Industry (Long Service Leave) Administration Regulations 1993***

#### **1 The whole of the instrument**

Repeal the instrument.