

1992

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE HOUSE OF REPRESENTATIVES

**COAL MINING INDUSTRY (LONG SERVICE LEAVE)
PAYROLL LEVY BILL 1992**

EXPLANATORY MEMORANDUM

(Circulated on the authority of the Minister for Industrial
Relations, Senator Peter Cook)

Coal Mining Industry (Long Service Leave) Payroll Levy Bill 1992

Outline

The Coal Mining Industry (Long Service Leave) Payroll Levy Bill 1992 (the "Bill") is introduced in conjunction with the Coal Mining Industry (Long Service Leave Funding) Bill 1992, the States Grants (Coal Mining Industry Long Service Leave) Amendment Bill 1992 and the Coal Mining Industry (Long Service Leave) Payroll Levy Collection Bill 1992 (collectively referred to as the "bills"). The bills give effect to the Government's proposals to reform the funding of long service leave in the black coal mining industry in New South Wales, Queensland, Western Australia and Tasmania. The reforms are in response of the Willett Inquiry Report entitled, "Review of Funding Arrangements: Coal Mining Industry Long Service Leave", commissioned by the Minister for Industrial Relations, Senator Peter Cook, in August 1990.

Under the existing legislative scheme comprising the States Grants (Coal Mining Industry Long Service Leave) Act 1949, the Coal Excise Act 1949, the Excise Tariff Act 1921 and the complementary legislation in the four participating states money collected from an excise on the production of black coal is paid into consolidated revenue. Amounts equal to these collections are appropriated for payment into the trust fund established and maintained pursuant the States Grants (Coal Mining Industry Long Service Leave) Act 1949. Under the present scheme, long service leave payments made to employees by participating employers are reimbursed by the relevant State which is in turn reimbursed from the trust fund.

Projected excise collections under the existing scheme will be sufficient to meet current long service leave liabilities. The Willett Report, however, identified a number of deficiencies in the existing scheme including:

- the subsidisation by highly mechanised mining operations of labour intensive operations; and
- a net accrued unfunded liability for untaken long service leave estimated as at 30 June 1990 at \$250.2 million.

The Bill imposes a levy upon the wages paid to certain employees defined as eligible employees within the black coal industry.

The Government aims to establish a compulsory, national industry scheme, to fully fund, on an accrual basis, the long service leave entitlements of persons employed in the black coal mining industry by participating producers.

Financial Impact Statement

The Bill and the Government's overall reform package will not involve significant outlays by the Commonwealth. In particular, it is noted that the Coal Mining Industry (Long Service Leave Funding) Bill 1992 provides for recovery by the Commonwealth of costs incurred in connection with the development and administration of the scheme.

Importantly, the objective of the reforms is to ensure that the currently unfunded liability for long service leave becomes fully funded without imposing an unreasonable burden on the industry.

It is intended that when the accrued liability is fully funded, the scheme will be wound up and responsibility for provision of long service leave entitlements will be returned to the industry.

Notes on Clauses

Clause 1: Short Title

The short title of the Act is given.

Clause 2: Commencement

Subclause 2(1) sets a commencement date to be fixed by Proclamation. As commencement is dependent on the passage of amending legislation in four State parliaments, a fixed date for commencement cannot be determined at this stage. It is anticipated that the legislation will come into effect on or about 1 January 1993. In any event, subclause 2(2) provides for the Bill to commence (if it has not already done so) on the day after the end of the first 12 month period after the Act receives Royal Assent.

Clause 3: Incorporation

Pursuant to this clause Coal Mining Industry (Long Service Leave) Payroll Levy Collection Act 1992 is incorporated into this Bill and is to be read as one with this Bill.

Clause 4: Imposition of levy

This clause imposes a levy on eligible wages paid to "eligible employees". "Eligible employees" are defined in the Coal Mining Industry (Long Service Leave Funding) Act 1992 to be:

- (a) employees under a relevant black coal mining industry industrial award, determination or agreement including an enterprise or workplace agreement whose duties are carried out at or about a place where black coal is mined;
- (b) a person employed by a company that mines black coal, whose duties are directly concerned with day to day mining operations whether or not that person works at or about the place the mining operations occur;
- (c) a person employed on a full-time and permanent basis in connection with rescue operations within the black coal mining industry whose duties are carried out from a mines rescue station;

- (d) any person or class of person prescribed to be an eligible employee; but does not include:
- (e) an employee whose duties are performed in South Australia; or
- (f) any person or class of person prescribed not to be an eligible employee.

Clause 5: Rate of levy

The clause provides that the rate of the levy is the rate prescribed by the regulations. The initial rate of the levy has yet to be determined but is unlikely to exceed 6.5 percent of payroll.

Clause 6: Person liable

This clause imposes the liability for the levy on any person who pays wages to an eligible employee.

Clause 7: Purpose of the levy

This clause specifies that the purpose of imposing the levy is to fund long service leave payments to eligible employees.

Clause 8: Regulations

This clause empowers the Governor-General to make regulations for the purposes of prescribing a percentage pursuant to clause 5 and requires him to consider advice given to the Minister by the Coal Mining Industry (Long Service Leave Funding) Corporation to be established under the Coal Mining Industry (Long Service Leave Funding) Act 1992.



9 780644 234719