

**Senate Standing Committee on Education Employment and Workplace
Relations**

**QUESTIONS ON NOTICE
Supplementary Budget Estimates 2012-2013**

Outcome 4 – Workplace Relations and Economic Strategy

DEEWR Question No. EW0670_13

Senator Abetz asked on 17 October 2012 , Hansard page 114

Question

Change to Coal Mining Industry Long Service Leave Act

Senator ABETZ: Who is expert on the black coal long service leave act? Mr O'Sullivan, is it? It has been put to me that there has been a change to that act and I recall that going through—when was that? Mr Kovacic: I think it went through in the latter part of last year. Senator ABETZ: It is now covering a lot more and many more people are covered. Therefore, a degree of back pay has become necessary, which is putting some strain on the fund. Are you aware of that, Mr O'Sullivan? If you are not, just take it on notice. Mr O'Sullivan: I am going to have to take that on notice. Mr Kovacic: I think there are two dimensions. One is that the legislation enacted last year was, in essence, to translate what were award provisions into the act. There is a coal industry long service leave corporation which imposes a levy on the sector. We will take it on notice, but it could be that the levy has been adjusted by the corporation itself. That might be the context of the remarks which have been put to you.

Answer

Amendments were made to the *Coal Mining Industry (Long Service Leave) Administration Act 1992* ('the Administration Act') in 2009 to address the concern of long service leave entitlements lapsing with the commencement of model awards: *Coal Mining Industry (Long Service Leave Funding) Amendment Act 2009*. The amendments also ensured the scheme would apply universally in the black coal mining industry by extending the preserved award-based long service leave entitlements to all eligible employees who did not otherwise have an award derived long service leave entitlement. The effect of the 2009 amendments was to recognise the past service of employees in the black coal mining industry.

The *Coal Mining Industry (Long Service Leave) Legislation Amendment Act 2011* ('the Amendment Act') which commenced on 1 January 2012, amended the Administration Act to (among other things) change the qualification period for long service leave entitlements from 'continuous service' to 'aggregate service'. This allows an employee to have breaks in service in the black coal mining industry of no more than 8 continuous years without losing the periods of qualifying service accrued.

The 2009 and 2011 amendments extended eligibility and changed the way long service leave entitlements accrued, however there have been no indications that the Coal Mining Industry (Long Service Leave) Fund is under strain. The amendments did not result in 'back pay' becoming payable. The Coal Mining Industry (Long Service Leave Funding) Corporation's annual report is expected to be tabled in Parliament in December 2012.

Both the 2009 and 2011 amendments gave effect to proposals developed by an Industry Working Party to reform long service leave arrangements in the black coal mining industry. The working party comprised of representatives from the NSW Minerals Council Limited; the Queensland Resources Council; the Construction, Forestry, Mining and Energy Union (Mining and Energy Division); the Electrical Trades Union; the Australian Manufacturing Workers Union; the Association of Professional Engineers, Scientist and Managers Australia; the NSW Colliery Officials Association; and the Mine Manager Association of Australia.