



Australian Government

Coal Mining Industry
(Long Service Leave Funding) Corporation



Regulatory Appeals Committee

Terms of Reference

Contents

Contents.....	2
1. Purpose and Objectives	3
2. Powers	3
3. Duties and responsibilities of the RAC	4
3.1 Review of MSR application decisions:	4
3.2 Review of other decisions made by CLSL, as described in section 2:.....	4
3.3 Regulatory Governance:.....	4
4. Composition	5
4.1 Membership	5
4.2 Knowledge Requirements	5
4.3 Quorum.....	5
4.4 Chair	5
4.5 Term of Appointment.....	5
5. Meetings.....	5
5.1 Frequency of meetings	5
5.2 Observers and invitees.....	6
5.3 Decisions	6
5.4 Minutes of Meetings	6
6. Reporting.....	6
7. Code of Conduct	6
8. Terms of Reference Review	6
9. References and Related Documents	7
10. Version History	7

1. Purpose and Objectives

The Board of Directors (**the Board**) of the Coal Mining Industry (Long Service Leave Funding) Corporation (**CLSL**) has constituted the Regulatory Appeals Committee (**RAC**) to discharge its functions in accordance with these Terms of Reference.

The purpose of the RAC is to provide CLSL's stakeholders with assurance that decision making under the governing legislation has the appropriate procedural fairness and rigour applied. The objectives supporting this are:

- Continuous improvement of processes and organisational knowledge to facilitate timely and appropriate outcomes.
- Consideration of new information, evidence and perspectives.

In undertaking its duties, the RAC is required to align with CLSL's risk management framework.

2. Powers

The Board authorises the RAC to make decisions regarding the outcomes of impacted party requests to review previous decisions relevant to:

- The eligibility of employees as assessed under Missing Service Review (**MSR**) applications.
- Determination of matters of fact under Section 49 of the *Coal Mining Industry (Long Service Leave) Administration Act 1992* (**Administration Act**) relevant to whether an amount is payable to a person out of the fund, including:
 - payments to an employer under section 44(1) of the Administration Act (dispute regarding reimbursable amount for LSL taken);
 - payments to a legal personal representative under section 44(2) of the Administration Act (dispute regarding payment amount for a deceased eligible employee);
 - refunding overpaid levies under section 47 of the Administration Act, (dispute regarding whether refund is due and/or as to the amount due);
 - payment for long service leave entitlements under Section 48 of the Administration Act (dispute as to whether payment is due and/or amount due).
- Remission of additional levies under Section 8 of the Coal Mining Industry (Long Service Leave) Payroll Levy Collection Act 1992 (**Collection Act**).

In doing so, the RAC may:

- Seek any information it requires within the scope of its functions.
- Have unlimited access to relevant CLSL employees.
- Request independent advice, where it considers this necessary to carry out its duties and responsibilities.
- Refer to the Board any decisions, policies or other documents for review and approval.

Where CLSL requires external legal advice in respect of material and/or contentious matters, Management is required to seek the RAC's endorsement of Management's decision when selecting external legal services providers.

If the RAC does not unanimously endorse Management's decision on the recommended provider, the matter is to be escalated to the Board for determination.

In circumstances where time is of the essence, the RAC Chair may endorse Management's decision on the service provider to be used. This engagement and rationale for the engagement must then be reported to the RAC at the next available meeting.

3. Duties and responsibilities of the RAC

The RAC is to meet and receive reports and review matters relating to the following areas of responsibility:

3.1 Review of MSR application decisions:

- Consider stakeholder requests to review previous decisions made by CLSL and to either ratify or overturn these decisions.
- To act as a source of industry knowledge and consult with CLSL staff, as needed, to support the development of guidance around new precedents regarding employee eligibility.

3.2 Review of other decisions made by CLSL, as described in section 2:

- Consider stakeholder requests to review previous decisions made by CLSL Management under delegation and to either ratify or overturn these decisions.

3.3 Regulatory Governance:

Oversee and provide advice on the appropriateness of CLSL's key regulatory governance elements, including:

- Regulatory policy maintenance and review; endorsement of changes to existing regulatory policies and recommendation of new policies to the Board. Minor amendments to policies may be approved by the RAC. The RAC is to discern whether a revised policy should be tabled for Board approval, based on the materiality of any proposed revisions.
- Regulatory Guidance Note maintenance and review; endorsement of changes to existing guidance notes and recommendation of new guidance notes to the Board. Minor amendments may be approved by the RAC. The RAC is to discern whether a revised guidance note should be tabled for Board approval, based on the materiality of any proposed revisions.
- Oversight of complaints received and handled;
- Oversight of material operational issues and incidents and other material regulatory matters, with respect to regulatory activities conducted by CLSL.

To assist with this:

- Subject matter experts may be involved, as appropriate; and
- Members need to be informed ahead of meetings, through briefing papers, about issues and recommended solutions.

4. Composition

4.1 Membership

The RAC shall consist of no less than three Directors. Members shall include at least one employer and one employee-representative. All RAC members are appointed to the RAC by the Board.

4.2 Knowledge Requirements

All members are required to have the appropriate qualifications, knowledge skills and experience to support the RAC in performing its function. Including:

- Working knowledge of the industry including operational roles and functions of coal mining;
- Broad understanding of regulation; and
- Detailed understanding of the scheme legislation, and CLSL's regulatory powers.

4.3 Quorum

At least one employer and one employee representative must be present at the meeting to form quorum. Quorum must be maintained during the entirety of the meeting.

Where a member declares a conflict of interest¹ with any agenda item, they will abstain from related discussions. If quorum cannot be maintained in this circumstance the remaining members must make a recommendation on that agenda item to the Board.

Declared conflicts of interest are recorded in the minutes of the meeting, together with details of how the RAC dealt with the conflict.

4.4 Chair

A RAC Chair shall be appointed by the Board for an agreed term. If the RAC Chair is unable to attend a meeting, the meeting shall be presided over by a temporary Meeting Chair selected by members in attendance.

The skills and experience of the RAC Chair will be in line with the Director's Competency Framework.

The RAC Chair will regularly evaluate the RAC's performance.

4.5 Term of Appointment

The term of appointment of any permanent member to the RAC shall be determined by the Board from time to time.

5. Meetings

5.1 Frequency of meetings

The RAC shall meet at least every six months. Additional meetings may be scheduled, as required.

¹ A conflict of interest constitutes an action, involvement, relationship etc. between a member and a person or entity that is the subject of consideration under any agenda item, that may have an actual or perceived impact on the outcome determined.

A record of matters for consideration and their urgency will be monitored by the General Manager, Regulatory Insight and meetings called, as appropriate.

5.2 Observers and invitees

The CEO is entitled to attend RAC meetings in an ex-officio capacity. The RAC may invite other persons including CLSL Executives to observe meetings and provide information. Such persons may include other CLSL employees, employees of a service provider, consultants or advisers to CLSL or members of the Board or its other sub-committees.

5.3 Decisions

For a resolution to be made in accordance with Sections 2 and 3 above, decisions must be unanimous. If this cannot be achieved, the matter will be escalated to the Board for resolution. The reasons for the inability to reach an agreement shall be indicated in the report to the Board.

Any member of the RAC may request that a matter is escalated to the Board for resolution.

Only RAC members may vote in any deliberations of the RAC.

The RAC is empowered to make decisions by circular resolution and can conduct meetings by teleconference or video conference.

Decisions by circular resolution must be 100% in favour to be approved.

5.4 Minutes of Meetings

The minutes will comprise resolutions (including reasoning) and actions resulting from discussions. Minutes will be prepared and circulated to attendees as soon as practicable after the meeting has been held.

Minutes will be taken by CLSL appointed staff.

6. Reporting

The minutes, agenda and supporting papers of each RAC meeting shall be made available the members of the Committee and shared with the Board at the next quarterly meeting, unless requested sooner. The Chair will also provide a brief verbal update to the Board at that meeting. These documents will also be shared with staff of CLSL.

7. Code of Conduct

CLSL's Code of Conduct always applies in respect to the operations of this Committee.

8. Terms of Reference Review

The Terms of Reference for the RAC shall be reviewed every two years or as required. All amendments must be approved by the Board.

9. References and Related Documents

- CLSL Code of Conduct
- CLSL Regulatory Strategy

10. Version History

Ver.	Date	Changed/Approved by	Changes made
1	December 2023	Board	Original
2	September 2024	Board	Powers and Functions (now duties and responsibilities) updated to include oversight of CLSL's key regulatory governance elements
3	March 2026	Board	Annual review
4	June 2026	Board	Powers updated to include determining and advising Management on the external legal services provider/providers to be engaged (where CLSL requires legal advice for material/contentious matters)