Australian Government

Coal Mining Industry
(Long Service Leave Funding) Corporation

GUIDANCE NOTE
UNPAID LEVY PAYMENT ARRANGEMENT (ULPA)

THE USE OF REASONABLE ASSUMPTIONS TO UPDATE ELIGIBLE EMPLOYEE RECORDS FROM AN UNPAID LEVY PAYMENT ARRANGEMENT

The information in this Guidance Note applies to the use of reasonable assumptions to complete the records of eligible employees included in an Unpaid Levy Payment Arrangement (ULPA) only.

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Purpose of this Guidance Note

The information in this Guidance Note applies to the use of reasonable assumptions to complete the records of eligible employees included in an Unpaid Levy Payment Arrangement (**ULPA**) only.

The purpose of this Guidance Note is to assist employers[1] and eligible employees to understand Coal LSL's views on how it will use reasonable assumptions to complete an employee's service record. This guidance is not intended as legal advice and is confined to eligible employee service recorded in an ULPA.

During its review of the draft and final ULPAs, Coal LSL will engage with employers to understand the information provided. This will inform the reasonable assumptions Coal LSL may make in updating eligible employee records.

The *Coal Mining Industry (Long Service Leave) Legislation Amendment Act 2026* inserts:

- Section 9A Payment Arrangements for historical arrears of levy after section 9 of the *Coal Mining Industry (Long Service Leave) Payroll Levy Collection Act 1992* (**Collection Act**); and
- Schedule 1 – Payment arrangements for historical arrears of levy (**ULPA schedule**) into the Collection Act, at the end of section 15 - Regulations; and
- Section 39G Employment relating to unpaid levy payment arrangements at the end of Division 6 of Part 5A of the *Coal Mining Industry (Long Service Leave) Administration Act 1992* (**Administration Act**).

Employment periods covered by an unpaid levy payment arrangement (ULPA) may include service from 1 January 2010 to 1 September 2026. Section 39G of the Administration Act contemplates that an employer may not have complete records of its eligible employees' service for completing an ULPA.

To enable eligible employees to be connected with their long service leave entitlements, section 39G of the Administration Act provides that reasonable assumption(s) may be made to complete an eligible employee's service record.

[1] The definition of 'employer' in Coal LSL's legislation refers only to a national system employer as defined in section 14 of the *Fair Work Act 2009*.

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What are reasonable assumptions?

A reasonable assumption will have regard to any information available through the ULPA process and the applicable context to provide for the completion of the eligible employee's service record.

How are Coal LSL's reasonable assumptions used?

Coal LSL may apply reasonable assumptions to update an eligible employee's service record with service information included in an ULPA, if the information in the ULPA is incomplete or insufficient. This allows for the inclusion of eligible service that might otherwise be omitted if complete data was required.

Coal LSL will rely on the information provided by an employer in an ULPA to:

- consider the ULPA for approval; and
- to create a record of qualifying service for the eligible employee.

Where an employer has insufficient information or supporting material relating to an eligible employee's period of employment, Coal LSL will review the available information on a case-by-case basis and make reasonable assumptions to record the qualifying service for that eligible employee.

An eligible employee must be included in an ULPA for Coal LSL to make any reasonable assumptions about their service under section 39G of the Administration Act.

EXAMPLE

ABC Pty Ltd has records that Oliver was employed from 1 March 2015 to 30 June 2020 as a casual eligible employee. ABC Pty Ltd has limited records of the hours that Oliver worked each week during this period, however Oliver's pay slips and PAYG summaries indicate that the amount paid to Oliver is reflective of a casual employee who has worked full time equivalent hours.

ABC Pty Ltd includes Oliver in the ULPA and calculates the eligible wages using historical information about Oliver's pay. During its review of the draft ULPA submission, CLSL requests, and ABC Pty Ltd provides, the pay slips and PAYG summaries as supporting material for its ULPA.

Conclusion:

Coal LSL relies on the information ABC Pty Ltd provides in the ULPA and its supporting material to assume that Oliver was a casual eligible employee for each week during the period 1 March 2015 to 30 June 2020, working no less than full-time equivalent hours.

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