



New South Wales

Long Service Leave (Metalliferous Mining Industry) Regulation 2021

under the

Long Service Leave (Metalliferous Mining Industry) Act 1963

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Long Service Leave (Metalliferous Mining Industry) Act 1963*.

DON HARWIN, MLC

Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts

Explanatory note

The object of this Regulation is to repeal and remake, with minor changes, the *Long Service Leave (Metalliferous Mining Industry) Regulation 2016*, which would otherwise be repealed on 1 September 2021 by the *Subordinate Legislation Act 1989*, section 10(2).

Section 3(2C) of the *Long Service Leave (Metalliferous Mining Industry) Act 1963* provides that, for the purpose of paying long service leave, bonuses do not form part of a worker's ordinary pay if the worker's ordinary pay exceeds the amount prescribed by the regulations. This Regulation prescribes that amount.

This Regulation is made under the *Long Service Leave (Metalliferous Mining Industry) Act 1963*, including sections 3(2C) and 15 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 of the *Subordinate Legislation Act 1989*, namely—

- (a) matters of a machinery nature, and
- (b) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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1 Name of Regulation

This Regulation is the *Long Service Leave (Metalliferous Mining Industry) Regulation 2021*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Note. This Regulation repeals and replaces the *Long Service Leave (Metalliferous Mining Industry) Regulation 2016*, which would otherwise be repealed on 1 September 2021 by the *Subordinate Legislation Act 1989*, section 10(2).

3 Definition

In this Regulation—

the Act means the *Long Service Leave (Metalliferous Mining Industry) Act 1963*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

4 Calculating ordinary pay for payment of annual leave—bonuses

For the purposes of section 3(2C) of the Act, the prescribed annual amount of a worker's ordinary pay is the greater of the following—

- (a) \$144,000,
- (b) the amount calculated, from time to time, in accordance with Chapter 2, regulation 2.13 of the *Fair Work Regulations 2009* of the Commonwealth.

Note. Section 3(2C) of the Act provides that, for the purpose of paying long service leave, bonuses do not form part of a worker's ordinary pay if the worker's annual ordinary pay exceeds the amount prescribed by the regulations. This clause prescribes that amount.

5 Repeal and savings

- (1) The *Long Service Leave (Metalliferous Mining Industry) Regulation 2016* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Long Service Leave (Metalliferous Mining Industry) Regulation 2016*, had effect under that Regulation continues to have effect under this Regulation.