

Statement of Public Interest

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TAB 9

REVENUE AND OTHER LEGISLATION AMENDMENT BILL 2025

STATEMENT OF PUBLIC INTEREST

Clerk of the Parliaments

26 6 / 25

Need: Why is the policy needed based on factual evidence and stakeholder input?

Ringfencing One Fund Phase 2

The Government implemented a framework (the Contributions and Transfers Framework) to improve liquidity and cashflow management of those funds participating in OneFund and to provide support in the event a fund or scheme is temporarily underfunded. The Government will quarantine the Phase 2 funds – Lifetime Care and Support Authority Fund (LCSAF), Workers' Compensation (Dust Diseases) Fund (DDF) and Motor Accident Injuries Treatment and Care Benefits Fund (MAITCBF) from any OneFund transfer arrangements as these funds are also held for the benefit of third parties.

Royalty Deferral Scheme

Implementation of Critical Minerals Royalty Deferral Scheme

Legislative amendment is necessary to implement the Critical Minerals Royalty Deferral Scheme which is a key action of the Critical Minerals and High-Tech Metals Strategy 2024-35. Growth in the critical minerals sector is essential to ensure a pipeline of new projects is in place to support the NSW economy as the coal sector declines, and to facilitate supply of minerals necessary for the renewable energy transition. However, the NSW critical minerals sector is led by junior to mid-tier operators, who face difficulties in attracting investment and establishing projects due to long lead times and the need for high upfront capital investment. The Deferral Scheme seeks to ease cashflow stress and improve investment feasibility for new critical minerals projects during the first five years of operation, by providing time for projects to fully establish operations and scale-up production before they start paying royalties.

Protecting the budget position

Legislative amendment is necessary to give further protection to the state budget position by strengthening the current royalties framework and rehabilitation securities deposit framework. Payment of royalties is a requirement under the *Mining Act 1992* and ensures an appropriate return on the state's mineral resources. Mining title holders are required to provide security deposits to cover the full cost of rehabilitation. This minimises the risk to the State if a mine fails to fulfil their rehabilitation obligations. The current framework does not have the power to register a fixed charge to secure overdue royalty debt or unpaid security deposit amounts. There is no power currently to prevent the transfer of a mining authority where a royalty debt is outstanding. This creates a financial risk for the State.

Enforcing the existing framework

Other amendments will clarify existing provisions to ensure that the current framework continues to operate as intended. Currently there is no head of power to require sub-lease holders to lodge royalty returns. In these circumstances the royalty amount cannot be accurately determined and appropriate royalty payments are made. The amendments will also clarify that the obligation to pay royalties for coal reject continue even where no coal royalty determination exists, which is needed to ensure continued payments of royalties on this material. Collection of royalties is completed jointly by Revenue NSW and NSW Resources so additional amendments to strengthen information sharing between the two departments and for disputes relating to royalties be referred from the Chief Commissioner of Revenue NSW to the Minister for Natural Resources to prevent the evidentiary burden from falling to Revenue NSW.

Aligning Jobs Plus legislation with the Jobs Plus Program

Section 66F of the *Payroll Tax Act 2007* was introduced to give the Minister power to provide payroll tax relief to business for the Jobs Plus Program introduced in 2020. This section currently gives the Minister broader powers than originally intended and is inconsistent with the Jobs Plus Program. This amendment aligns the legislation with the policy.

Restore the definition of a 'relevant employee' for the *State Authorities Non-contributory Superannuation (SANCS) Act 1987*

The SANCS Additional Employer Contribution (AEC) entitlement was created to fix an issue with the interaction between the NSW Public Sector Wages Policy and the Superannuation Guarantee Rate, to ensure that members of the State's defined benefit funds were treated fairly as the Superannuation Guarantee Rate increased over several years.

The policy objective of the AEC was to ensure that defined benefit members were treated in a comparable manner to defined contribution members. This amendment provides legislative backing to restore this entitlement.

Unclaimed Monies

The current unclaimed money system is not working as well as it could be. The *Unclaimed Money Act 1995* places the onus on the owner to apply for repayment of their unclaimed money. However, owners are often not even aware that they have unclaimed money or experience difficulties in finding and applying for the money. Enterprises are required to make reasonable efforts to repay owners their money before lodging the unclaimed money with Revenue NSW after holding the money for 6 years. After this 6 year period, the information provided by enterprises about the owner is often outdated. Some enterprises are also not complying with their obligations, including providing information to Revenue NSW that is incomplete or inaccurate.

Objectives: What is the policy's objective couched in terms of the public interest?

Ringfencing One Fund Phase 2

The Phase 2 funds will be ringfenced exclusively to service third-party obligations and will not be used to transfer funds to any other fund. This approach ensures adequate resourcing, strengthens financial safeguards, and reinforces public confidence in the government's ability to manage public finances responsibly for their designated purpose.

Royalty Deferral Scheme

The objective of these amendments is to collect an appropriate return on the State's resources for the people of NSW, to encourage the development of the state's critical mineral resources, and to ensure taxpayer funds are not spent on mine rehabilitation, if there are insufficient security bonds should a leaseholder fail to fulfil their rehabilitation obligations.

The amendments will strengthen the ability of the Government to fulfil the objects of the *Mining Act 1992* of:

- encouraging and facilitating the discovery of mineral resources in NSW, which will be done through the royalty deferral scheme, will foster social and economic benefits, whilst ensuring an appropriate return on the State's mineral resources.
- increasing the ability of the Government to collect unpaid royalties will ensure an appropriate return on the state's resources are received from mining lease holders who are given the privilege of the rights to those resources.
- ensuring the government can collect unpaid security amounts will ensure effective rehabilitation of disturbed land and water and be consistent with the requirement to pay security for the rehabilitation of mine sites.

Aligning Jobs Plus legislation with the Jobs Plus Program

The current legislation provides the Minister with broad powers to create payroll tax exemptions that are inconsistent with the intention of the Jobs Plus Program. The amendments safeguard government revenue by aligning the legislation with the intention of the program.

Restore the definition of a 'relevant employee' for the SANCS Act

The policy objective of the AEC at the time of introduction was to ensure that defined benefit members were treated in a comparable manner to defined contribution members. This amendment will ensure defined benefit members retain this position.

Unclaimed Money

The policy aims to increase the repayment of unclaimed money to their owners, reducing the unclaimed money resting with the Government and helping people with cost-of-living pressures.

Options: What alternative policies and mechanisms were considered in advance of the bill?

Ringfencing One Fund Phase 2

The option of not ringfencing the Phase 2 funds under the OneFund investment structure was considered.

Royalty Deferral Scheme

The option of no legislative amendments, or maintaining the status quo, was considered.

Aligning Jobs Plus legislation with the Jobs Plus Program

Two alternative options were considered:

- Repealing s66F of the *Payroll Tax Act 2007*
- No legislative amendments

Restore the definition of a 'relevant employee' for the SANCS Act

Restoring the legislative basis for the policy can only be achieved through legislative amendment. No alternatives were considered.

Unclaimed Monies

The option of no legislative amendments was considered.

Analysis: What were the pros/cons and benefits/costs of each option considered?

Ringfencing One Fund Phase 2

If the Phase 2 funds were not ringfenced, the benefit includes greater flexibility to reallocate money across funds within OneFund as needs evolve. This approach could support more dynamic financial management within the OneFund structure, allowing surplus or underutilised funds to be redirected to areas of emerging priority. However, the cons of this includes the risk of funds being redirected away from their original purpose, which is to support third parties impacted by severe motor accidents or dust-related diseases.

The chosen option to ringfence Phase 2 funds within the OneFund structure will ensure that the Phase 2 funds are only held for the benefit of third parties, enhancing accountability. This prevents the diversion of funds to other funds under the Contributions and Transfers Framework. This also reinforces public assurance that these funds are being managed in line with their intended purpose.

Royalty Deferral Scheme

If the policy is not implemented, the industry would continue to face financial barriers to establishing new critical mineral projects. There are potential long-term economic impacts associated with a limited pipeline of critical minerals projects which may further impact future royalties and regional economies as coal declines. Not supporting the sector through the

scheme may result in a limited supply of critical minerals to support the renewable energy transition and meet emissions reduction targets. Communities face a limited pipeline of new mining jobs as the coal sector declines if incentives are not offered to the critical minerals sector.

There is the potential for significant revenue loss and liability for rehabilitation costs if recovery of unpaid amounts is not strengthened and potential lengthy and costly legal battles if litigious methods for collecting royalty debts are pursued instead. Loss of royalty revenue means less money available for investment in communities. There is also potential exposure to taxpayer-funded mine rehabilitation if insufficient security bonds are held by the Government.

Aligning Jobs Plus legislation with the Jobs Plus Program

Repealing s66F of the *Payroll Tax Act 2007* would impact the payroll tax exemptions provided under the Jobs Plus Program, undermining existing agreements with business. Not amending the legislation risks a future Minister providing payroll tax exemptions outside of the Jobs Plus Program.

Restore the definition of a 'relevant employee' for the SANCS Act

Not applicable.

Unclaimed Monies

Not amending the legislation would largely maintain the current state. Although some improvements to the system could still be made, they would be limited to administrative changes permitted within the legislation as is. The significant improvements, including enabling repayments without an application and shortening the timeframe for money to become unclaimed money, would not be possible. Thus, without legislative amendment, the repayment of unclaimed money to owners would unlikely be increased to any significant extent.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

Ringfencing One Fund Phase 2

Following passage of the Bill, the Government will amend Section 10.3B of the *Government Sector Finance Act 2018*. This will formally ringfence Phase 2 funds, being the Lifetime Care and Support Authority Fund (LCSAF), Workers' Compensation (Dust Diseases) Fund (DDF) and Motor Accident Injuries Treatment and Care Benefits Fund (MAITCBF), from the Treasurer's OneFund transfer powers. The Phase 2 funds are currently invested within OneFund. Oversight of the ringfencing mechanism will be led by NSW Treasury.

Royalty Deferral Scheme

The Deferral Approval amendments and regulations will commence on 1 July 2025 to ensure the royalty deferral scheme can be implemented consistent with previous public commitments made by the Government, with the remaining provisions commencing on assent. The Critical Minerals Royalty Deferral Scheme will be administered by NSW Resources. Administration of the royalty framework is completed by Revenue NSW in the Department of Customer Service while the Act sets out the requirements for the framework. Revenue NSW and NSW Resources will work jointly as required including to develop an information sharing regime that is compliant with the *Privacy and Personal Information Protection Act 1998* and Commonwealth privacy legislation.

Aligning Jobs Plus legislation with the Jobs Plus Program

The change has no impact on the existing provision of the Jobs Plus Program. The program will continue to be administered by Investment NSW.

Restore the definition of a 'relevant employee' for the SANCS Act

This amendment will restore legislative backing for the administration of the scheme and entitlements retroactive to December 2023.

Unclaimed Monies

The amendments are part of a broader program to accelerate the repayment of unclaimed money to owners. Revenue NSW plans to implement the program in phases over 4 years from the 2025-26 financial year.

The shortened timeframe for money to become unclaimed money (from 6 years to 2 years) will commence with the unclaimed money returns for the 2025-26 financial year which will be due for lodgment in October 2026.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

Royalty Deferral Scheme

Industry bodies were consulted on the amendments, including the Association of Mining and Exploration Companies, and the NSW Minerals Council. These bodies were broadly supportive of all the amendments.

Unclaimed Monies

Targeted consultation on the amendments was conducted with some of the top enterprises that lodge unclaimed money amounts, Business NSW and Local Government NSW.

The other legislative amendments in the Bill are to restore policy intent and therefore do not have any impacts on stakeholders, or otherwise do not have direct impacts on stakeholders outside of NSW Government.