



HIGH COURT OF AUSTRALIA

9 September 2026

COAL MINING INDUSTRY (LONG SERVICE LEAVE FUNDING) CORPORATION v ORICA
AUSTRALIA PTY LTD
[2026] HCA 30

Today, the High Court allowed an appeal and dismissed a cross-appeal from the Full Court of the Federal Court of Australia. The appeal concerned the liability of the respondent ("Orica") to make payments to the appellant ("the Corporation") under the portable long service leave scheme in the *Coal Mining Industry (Long Service Leave) Administration Act 1992* (Cth) ("the Administration Act") in respect of shotfirer employees who worked at open cut black coal mines in New South Wales. This liability turned on whether Orica's shotfirer employees were "eligible employees" under s 4(1) of the Administration Act.

Orica supplied shotfiring and related services at black coal mines through its employees. In May 2019, the Corporation issued Orica with a notice under s 52A of the Administration Act to provide information and documents relating to "eligible employees", specifically shotfirers at black coal mines. Orica commenced proceedings in the Federal Court of Australia seeking declarations that its shotfirer employees were not "eligible employees". The Corporation cross-claimed, seeking declarations to the opposite effect.

The Administration Act defined "eligible employee", relevantly, by reference to two bifurcated limbs, one known as the employer limb and the other known as the location limb. The location limb required that, in effect, the employee was "employed in the black coal mining industry", provided that the employee's duties were "carried out at or about a place where black coal is mined" and "directly connected with the day to day operation of a black coal mine". The only question in dispute before the primary judge was whether the shotfirers were "employed in the black coal mining industry". The "black coal mining industry" was in turn defined in s 4(1) of the Administration Act, unless the contrary intention appears, to have the "same meaning as in the Black Coal Mining Industry Award 2010" ("the Award"). Clause 4.3(g) of the Award excluded from the "black coal mining industry" the "supply of shotfiring or other explosive services by an employer not otherwise engaged in the black coal mining industry".

The primary judge in the Federal Court held that the structure of the definition of an "eligible employee" gave rise to a contrary intention displacing the application of cl 4.3(g), that the character of an employer was not intended to be relevant to the location limb, and made a declaration that the relevant Orica employees were eligible employees. The Full Court allowed Orica's appeal, holding that cl 4.3(g) applied to the location limb but that Orica was "otherwise engaged in the black coal mining industry" between March 2013 and 28 February 2022, such that Orica's shotfirers were "eligible employees" only between those dates.

The High Court, by majority, held that cl 4.3(g) applied only to the employer limb of the definition of "eligible employee" in the Administration Act and did not purport to make relevant to the location limb the status of the employer as "engaged in the black coal mining" industry or not. Therefore, Orica's shotfirers whose duties were carried out at or about a place where black coal is mined and who otherwise satisfied the requirements of the location limb were "eligible employees" under the Administration Act at all relevant times.

This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.