



Australian Government

Coal Mining Industry

(Long Service Leave Funding) Corporation

COAL LSL

IT'S YOUR TIME.



Long Service Leave
in Australia's black
coal mining industry

FOR EMPLOYERS



SUPPORTING AUSTRALIA'S BLACK COAL MINING INDUSTRY

OVERVIEW

Coal LSL is the Australian Government corporation established to regulate and manage long service leave entitlements on behalf of Australia's black coal mining industry.

This national, portable scheme accommodates employee movements which are common to the industry. It is a valuable employment benefit supporting skilled workforce retention and thereby strengthening the industry, which has a global reputation for quality.

A LEGISLATED SCHEME

The Coal Mining Industry (Long Service Leave) Administration Act 1992 (Admin Act) prescribes the long service leave entitlements of eligible employees in Australia's black coal mining industry.

The scheme is governed by various legislation, in addition to the Admin Act, which determines:

- ▶ Who is eligible.
- ▶ How leave accrues.
- ▶ When employees are entitled to take leave.
- ▶ The leave application and reimbursement process.
- ▶ The minimum amount of leave that can be taken at one time.
- ▶ Employer obligations and penalties for non-compliance.

Part of Coal LSL's function includes recording and maintaining leave accrual information on behalf of employees and ensuring employer compliance with the scheme.

A full list of governing and related legislation is available on our website. It is an employer's responsibility to understand and fulfil their legal obligations to ensure their employees can access their accrued long service leave hours when entitled to do so. Coal LSL can provide guidance to employers in fulfilling their obligations.

WHO IS ELIGIBLE

Eligibility for this long service leave scheme is defined in Section 4 of the Admin Act.

Anyone defined as an 'eligible employee' working in the black coal mining industry is eligible for the scheme. This includes people:

- ▶ Working full-time, part-time or casual.
- ▶ Working for contractors.
- ▶ Working for job agencies.

More information and examples for assessing eligibility are available on our website.

Definitions provided on page 7.

EMPLOYER OBLIGATIONS

Employers of employees eligible for the scheme must comply with the legislation, whether their organisation (as a whole) is working in the black coal mining industry or not. This is because eligibility for the scheme is determined by the **employee's industry**.

Employer obligations include:

- ▶ Registering with Coal LSL.
- ▶ Monthly reporting of all hours worked by each eligible employee and respective levy payment into the scheme.
- ▶ Submitting an annual audit report.
- ▶ Using the authorised Coal LSL forms (available from our website) and following Coal LSL procedures.

Failure to comply with obligations is a breach of the law and could result in legal action and penalties. The number of penalty units applied is dependent on the offence. Penalty units are defined by legislation under subsection 4AA(1A) of the *Crimes Act 1914* (Cth) and are subject to change.

THE LEVY

The long service leave levy is a mandatory employer contribution which does not come out of employee wages; an employer pays this in addition to the salary or other payments owing to the employee, similar to superannuation.

The levy is currently 2.7% of eligible wages.

Employers are obligated to report all hours worked and eligible wages earned by their eligible employees monthly through an authorised Levy Advice form; this form also calculates the respective levy amount that is required to be paid for the period.

Levies are paid into a pooled fund, which Coal LSL invests to ensure funds are accessible to employers after employees take their accrued long service leave hours.

ENTITLEMENT TO ACCRUED LEAVE

Employees are entitled to take long service leave after completing **eight years of qualifying service** as an eligible employee.

There are exceptions to this timeframe when an employee ceases to be an eligible employee due to redundancy, ill health, retirement or death.

Under the legislation, employees are allowed a break from working in the industry of up to eight years without losing their accrued hours.

LEAVE APPLICATION, PAYMENT AND REIMBURSEMENT

The leave application and payment process is transacted through the current or most recent employer:

1. Employee submits leave application to employer for approval.
2. Employer submits approved application to Coal LSL to validate the long service leave hours requested.
3. Coal LSL confirms the number of accrued hours available.
4. Employer pays the employee their leave through their usual payroll procedures.
5. Once the leave has been taken, the employer claims reimbursement for the amount from the Fund.

The legislation prescribes the minimum entitlements when paying leave:

- ▶ The **amount of leave** an employee is entitled to is based on their working hours.
- ▶ If an employee takes leave while employed, they are entitled to be paid at an amount equal to their base rate of pay (including incentive-based payments and bonuses paid at least monthly) that would have been payable had they been at work (i.e. not taken the leave).
- ▶ If an employee is paid out their accrued leave on termination, they're entitled to be paid at a rate as if they had taken the leave immediately before they stopped being employed.



Depending on the terms of employment with your employee, the amount of leave that the employee is entitled to receive from you and the amount of reimbursement you are entitled to receive from Coal LSL may not always be equal. Employers should refer to the *Employer Reimbursement Rules 2017* which are published on our website to ascertain their entitlement to reimbursement.

WHEN EMPLOYMENT CHANGES

- ▶ If an employee **resigns** and has not yet accrued eight years' qualifying service, they will not be able to access their leave entitlement. However, if they recommence work as an eligible employee after a break period of less than eight years, their service from prior to the break period will still be considered qualifying service.
- ▶ If you make an employee **redundant**, they can access their leave entitlement if they have completed at least six years' qualifying service.
- ▶ If employment ceases for **other reasons**, such as retirement, ill health or death, other provisions exist to enable access to accrued leave entitlement.



DEFINITIONS

Black coal mining industry is as defined in the *Black Coal Mining Industry Award 2010*.

Eligible employee is a person:

- ▶ Employed in the black coal mining industry by an employer engaged in the black coal mining industry, whose duties are directly connected with the day-to-day operation of black coal mining; or
- ▶ Employed in the black coal mining industry, whose duties are carried out at or about a place where black coal is mined and are directly connected with the day-to-day operation of a black coal mine; or
- ▶ Permanently employed with a mine rescue service for the purposes of the black coal mining industry.

Eligible wages are defined in Section 3B of the *Coal Mining Industry (Long Service Leave) Payroll Levy Collection Act 1992*. To determine its employees' eligible wages, an employer must first need to consider how that employee is categorised.

Qualifying service is service as an eligible employee of one or more employers. It does not include certain absences such as unpaid or unauthorised leave. For more detail, refer to Section 39A of the Admin Act.

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